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## INTRODUCTION TO THE THIRD EDITION

SINCE THE PUBLICATION of the second edition of the book in 1950, the growth of labour and industrial legislations in India has been continuous and in the present volume, the work has been thoroughly revised, recast and re-arranged and where necessary re-written to bring it up-to-date. The second edition was sold out quicker than was anticipated and there has been a persistent demand for an early third edition. The work, however, could not be taken in hand earlier due to several factors, the main being the author's desire to include all labour laws of the Central Government as contemplated in the Five Year Labour Programme of the Ministry of Labour and the First Five Year Plan of the Planning Commission in one comprehensive volume as a Reference Book for all concerned with labour laws. Parliament is now being prorogued for the general elections and this is the opportune time to place the new edition before the people interested in labour to enable them to know and study the labour laws undertaken by the Government of India from 1850 to 1956.

After the second edition was published in 1950, several new labour laws have been placed on the Statute Book and several important Amending Acts have also been passed by the Parliament. All these laws have been incorporated in the present volume. Several legislations which were not included in the previous editions have been included and all legislations have been divided subjectwise. Some of these are mentioned hereunder. Under Factory and Establishment Legislation, Safety Provisions of the Factories Act, 1948; Occupational Diseases and Indian Boilers Act, 1923, have been added. Under Mining Legislation, Mineral Legislation has also been included. Under Transport Legislation, apart from railway and dock labour, maritime labour, port labour, road transport labour and air transport labour have been added. Indebtedness Legislation, Fair Wage Clause and C. P. W. D. Contractor's Labour Regulations have been added in Wages Legislation. Under Social Security Legislation, provident fund legislations undertaken prior to the enactment of the Employees' Provident Funds Act of 1952 have been incorporated. Legislation relating to Superannuation Funds and Rules for creation of Gratuity Fund have also been included under this heading as also extracts from the Indian Trusts Act and the Estate Duty Act about investment of the trust money under the former Act and trustees' liability under the latter Act. Industrial Housing Legislation is a new one. Under Miscellaneous Legislation, several important legislations, though not strictly pertaining to labour, have been included.

Many new important matters which have not yet been published in any single volume and which were not included in the previous editions have been given in the Appendix to make it more useful for all those who are interested in labour problems and labour legislations. Another new feature is the Index to Statutory Definitions which includes expressions defined in the different Acts, Ordinances, Rules and Regulations of the Government of India to enable the reader to know the different definitions of expressions like "wages", "workman", "worker", "workshop", "employee", "employer", "factory", "child", etc.

Many valuable suggestions have been received from people from different walks of life who had occasions to use the first two editions and most of their suggestions

have been given effect to in this edition. I express my grateful thanks to Sir Walter Monckton, former Minister of Labour and National Service, United Kingdom, and also to the Controller of H. M. Stationery Office, London, for permission to reproduce the Model Constitution and Functions of a Joint Industrial Council, Suggested Constitution and Functions of Works Committee and Constitution of Joint Production Consultative and Advisory Committees from "Industrial Relations Handbook". My thanks are also due to the managements of the different Companies and Unions for their permission to reproduce their respective Collective Agreements in the book. I am grateful to the Secretaries of the World Federation of Trade Unions, Paris and International Confederation of Free Trade Unions, Brussels, for their permission to reproduce the Aims and Objects of their respective Organisations as well as the authorities of the four Central Trade Union Organisations in India, viz., A.I.T.U.C., I.N.T.U.C., H.M.S., and U.T.U.C., for their allowing me publish their Aims and Objects in this edition.

My thanks are also due to the different Ministries of the Government of India, specially the Ministry of Labour and Ministry of Law for valuable and up-to-date information and the Ministry of Railways for permission to publish the Railway Permanent Negotiating Machinery. Sri T. S. Swaminathan, Secretary, Employers' Federation of India, Bombay, and the International Labour Office, Indian Branch, New Delhi have been of great help to me in supplying all up-to-date information asked for within the shortest possible time. I cannot close without acknowledging the goodwill and encouragement of numerous friends and colleagues in various parts of the country for their constructive criticisms and various suggestions. Lastly, I shall be failing in my duty if I do not express my deep sense of gratitude to the management of the Bata Shoe Company Private Limited, Calcutta, for their constant encouragement and help in my endeavour.

I hope that this edition will be found useful to all who are connected with the administration of labour laws as well as those who are interested in labour matters. In conclusion, I will welcome any suggestion or criticism of my introductory notes and comments which are my own and for which I am solely responsible.

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5th February, 1957.

S. N. BOSE

## INTRODUCTION TO THE FIRST EDITION

THE subject of industrial labour and industrial welfare has to-day assumed greater importance in an independent India. Although the origin of labour legislation can be traced back to the early part of the last century and although India has undertaken several legislative measures in connection with some specified classes of industries, the progress was rather very slow until the inauguration of the International Labour Conference in 1919. The work of the International Labour Office and the annual session of the International Labour Conference had a very great influence on the public opinion in India towards the labour problems and it can not be denied that the chief impetus for most of the progressive labour legislations in India has been derived from the Conventions or Recommendations of the International Labour Conference. Though there are at present 86 Conventions, India has ratified only 16 Conventions and the progress so far achieved is not very much encouraging. The defect was due to lack of proper development of an uniform national labour policy on account of our political subjection. As a result labour legislation in India lacks uniformity in principle and co-ordination in development and the distribution of legislative and administrative powers between the Centre and Provinces under the Government of India Act, 1935, is also responsible for this lack of uniformity. In the pre-Autonomy period, labour legislation was the exclusive jurisdiction of the Central Government although the Provincial Governments could undertake labour measures for local purposes with the consent of the Governor-General. Under the Government of India Act, 1935, legislative powers relating to labour have been divided into three categories, viz., (i) Federal, (ii) Provincial and (iii) Concurrent; but a majority of labour questions have been relegated to the Concurrent List, (Part II of List III). According to the Rege Committee, "this scheme of distribution of powers has resulted in a complete lack of uniformity, both in regard to policy and action." The Whitley Commission recommended in 1931, the setting up of an Industrial Council consisting of the representatives of the Provincial Governments and Indian States for formulation of an uniform Labour Code for India. Though no action was taken on this recommendation, the establishment of a permanent Tripartite Labour Organisation in 1942 consisting of the representatives of Central, Provincial and State Governments and employers and workers on the model of the International Labour Organisation, was an important step forward in promotion of an uniformity in labour legislation and discussion of all matters of all-India importance concerning employers and employees. This Organisation consists of the Labour Conference which meets once a year and the Standing Labour Committee which meets not less than twice a year. For the sake of uniformity in labour legislation, the jurisdiction of the future Indian Parliament should be extended not only to enactment of labour legislation on all-India basis but also to their administration for ensuring maximum compliance with the provisions of law. The States (Provinces and Indian States) should concentrate in legislative and administrative measures which will not be tackled by the Union Government. The labour problems should always be considered in a broad national basis like food, planning, tariff, etc. An important step taken in this direction is the annual



Conference of the Provincial and State Labour Ministers under the Chairmanship of the Labour Minister of the Government of India where labour problems are discussed thoroughly and line of action is recommended. But the Draft Constitution of India proposed by the Drafting Committee of the Constituent Assembly has followed the old plan of legislative distribution, though under Article 217 (4), the Indian Parliament<sup>1</sup> will have power to make laws for the States and Territories of India notwithstanding such matter is a matter enumerated in the State List.

The most important step in the development of a national labour policy has been undertaken by the Indian National Congress beginning with the Karachi Resolution on Fundamental Rights in 1931, Faizpur Resolution on Agrarian Reforms in 1937, Election Manifestos of 1937 and 1947, the famous Quit India Resolution of 1942, the Meerut Resolution of 1946, organisation of Indian National Trade Union Congress in 1947 and ending with the Economic Programme embodied in the Report of the Economic Programme Committee of A. I. C. C. in 1948. The Congress after assuming charge of seven out of eleven Provinces after the Provincial Autonomy in April 1937, tried to give effect to the declared Congress Policy and implemented a part of this Policy inspite of several handicaps. The Interim Congress Government at the Centre also drew up a Five Year Labour Programme in 1946 for undertaking legislative and administrative measures for amelioration of labour conditions in India with a view to remove the chief defects revealed by the Royal Commission on Labour in India in 1931 and the Labour Investigation Committee in 1946. This Programme aims at a uniform co-ordinated labour policy for the entire country to promote social security and industrial peace, ensure fair wages and satisfactory conditions of work and embraces not only workers in organised industries but also workers in agriculture, commercial undertakings and unorganised industries and to implement the International Labour Conventions as far as possible. Within a short span of one year, the present Congress Government at the Centre was able to give effect to some of the important items in the Programme and put on the Statute Book, Industrial Disputes Act, 1947, Coal Mines Labour Welfare Fund Act, 1947, Indian Trade Unions (Amendment) Act, 1947, Dock Workers (Regulation of Employment) Act, 1948, Minimum Wages Act, 1948 and Employees' State Insurance Act, 1948. Apart from these enactments, a Bill containing several important provisions regarding welfare and safety of factory workers and covering unregulated factories also, was introduced on 3rd December, 1947 for a thorough overhaul and repeal of the existing Factories Act, 1934. Actions were also taken in the constitution of Labour Bureau, Industrial Committees on Coal Mining, Cotton Textiles and Plantations on tripartite basis on the model of I.L.O. The question of making the existing Employment Exchanges permanent and enlarging their scope is also being considered.

Though political freedom has been attained, economic and social freedom have yet to be achieved and for their speedy attainment, the Government is putting more and more emphasis on the industrial development and production of national wealth with the motto: "Produce or Perish". The problem of production of national wealth has a vital bearing upon the removal of poverty and illiteracy. Sir William Beveridge's Five Giants, viz., Want, Disease, Ignorance, Squalor and Unemployment flourish unabatedly in India than in anywhere else and these Giants should be systematically attacked on a road to reconstruction. A Conference consisting of the representatives of Central, Provincial and State Governments and Employers and Workers was convened by the

<sup>1</sup> Government of India (Amendment) Act, 1949 passed by the Constituent Assembly of India has empowered the Central Government to legislate exclusively over some items in Part II of the Concurrent List.

Government of India in December 1947 to discuss some urgent problems relating to the industrial development in India and to assist the Government in arriving at decisions for immediate increase of production and execution of short-term plans for the industrial development of the country. Several important Resolutions were unanimously passed including one relating to Industrial Truce for three years. The Government of India has accepted this Resolution and is taking necessary steps for its implementation. Under their recently announced Industrial Policy, the Government is proposing to establish machinery for advising on fair wages, fair remuneration to capital and conditions of labour and to associate labour in all matters concerning industrial production. The Government is appointing a Special Officer for quick decisions on matters arising out of the Truce Resolution. It is high time that we should take stock of things and compare our achievements in the domain of labour legislation with other countries of the world, with particular reference to the International Labour Code and Philadelphia Charter. The Philadelphia Charter should always be our guiding principle in the matter of enunciation of a national labour policy and enactment of future labour legislation. The recent enactment of minimum wage legislation and social insurance legislation is a forward step in this direction. After the attainment of freedom, the responsibility rests on the educated public who were not so long very much interested on the subject, to mould the public opinion in a new approach to the entire problem of labour legislation and its administration.

The industrial worker in India has a very vague idea about his general position in law in relation to his employer and his employment and much of existing bitterness and misunderstanding between labour and capital is due to a certain extent to his ignorance of his rights and duties under the existing law. The employer also is not always abreast of the laws in all particulars and specially his duties and responsibilities under the existing law. The respect for industrial laws by employers and employees will be of greatest help in bringing up the general standard of compliance. The need for a comprehensive and consolidated book containing all the existing labour and welfare legislations has long been felt in India. Mr. H. M. Trivedi's book on "Factory and Labour Legislation in India" published in 1945 was the first and solitary attempt for a comprehensive compilation of all legislative measures relating to labour and factory enacted by the Central and Bombay Governments with a nice Introduction. Several important legislations have been undertaken after the publication of this volume. The publication of a consolidated volume containing all the labour laws as amended up-to-date will serve as a handy guide not only to the employers and employees but also to every one who is interested in promoting the cause of industrial labour.

In the present book I have included all the existing labour, factory and labour welfare laws of the Government of India with rules, regulations and relevant notifications, with introductory notes and comments, within the limit of a single volume, for easy reference for lawyers, legislators, industrialists, trade unionists, employers, employees, social workers and people in every walk of life. The Appendix contains several useful information, viz., the Philadelphia Charter, International Labour Conventions, I.L.O. Resolution on Freedom of Association, Five Year Labour Programme and Industrial Policy of the Government of India and Resolution of the Industries Conference including Resolution on Industrial Truce and machinery for its implementation. The notes and comments made in the book represent my views and error or lack of clarity in the book, if any, may be attributed solely to me. My original ambition was to bring out an annotated edition of the existing labour laws in a single volume incorporating therein the decisions of reported cases of High Courts and I was working on that line;

but at the request of several of my friends in the Bar and the Bench for early publication of the volume, I am bringing out the book with introductory notes on each subject of labour legislation. I intend to incorporate the rulings of decided cases of different High Courts and Industrial Tribunals in the next edition. I have also undertaken to publish a second volume of this book with all the labour laws enacted and rules made on Central Acts by the Provincial Governments. Any suggestion and criticism for improvement will be duly considered and thankfully acknowledged.

I owe a deep debt of gratitude to Hon'ble Sri Jagjiwan Ram, Labour Minister of the Government of India for having taken the trouble of going through the book and writing a Foreword. My thanks are also due to my friends Mr. G. C. Bose, Managing Director, Bookland Ltd. and Mr. P. C. Bhattacharjee, Managing Director, World Press Ltd., for their assistance and co-operation in the printing and publication of this volume. My wife has considerably helped me in reading through the proofs and preparation of the Index and she has foregone many a pleasure that this book is written.

JAI HIND.

Batanagar, 24-Parganas,  
14th May, 1948.

S. N. BOSE

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# **FACTORY & ESTABLISHMENT LEGISLATION**





## **FACTORY LEGISLATION**

The most important labour legislation in India relates to the factories. The need for regulation of hours of work and conditions of employment of industrial workers was recognised in India from the middle of the last century. But there was no state regulation of factory labour prior to 1881.

### **Indian Factories Act, 1881 (XV of 1881)**

The first comprehensive legislation for regulating labour in factories was passed in 1881. Indian Factories Act, 1881 applied to manufacturing establishments using mechanical power and employing 100 or more persons, plantation industries being exempted. The Act prohibited the employment of children under seven years of age and prescribed the minimum and maximum ages for employment at seven and twelve, 9 hours working every day with an interval of rest for one hour and a weekly holiday for children only.

### **Indian Factories Act, 1891 (XI of 1891)**

The influence of the first International Labour Conference held in Berlin in 1890 and the pressure from Manchester led to the appointment of a Commission by the Government of India on 25th September, 1890. Mainly on the basis of its recommendation, a new Act was passed in 1891 and came into force on 1st January, 1892. This Act was an advance on the previous Act. The Act applied to all factories employing 50 persons and using power. The lower and upper limits of age of children were fixed at 9 and 14 respectively and their hours of work were limited to 7 hours a day, with a rest interval of half an hour. The Act prescribed an 11 hour day with a rest interval of 1½ hours for women and restricted the employment of women and children. Men were to enjoy an interval of ½ hour rest and one holiday every week. The Provincial Governments were given power to make rules regarding measures of sanitation and comfort.

### **Indian Factories Act, 1911 (XII of 1911)**

The Act of 1911 regulated, for the first time, the hours of work of adult male industrial workers and covered seasonal factories which work for less than 4 months in a year. The Act limited the hours of work of adult male workers to 12 a day and of children to 6 a day in textile factories, with a rest interval of half an hour. The Act contained extensive provisions regarding health and safety and effective inspection of the administration of the factories.

### **Indian Factories (Amendment) Act, 1922 (II of 1922)**

Partly as a result of the International Labour Conference and partly as a result of growing social consciousness of the people, the Factories Act was amended in 1922 making some important changes in the provisions. The amending Act was extended to include all industrial undertakings using mechanical power and employing 20 or more persons. The hours of work for all adult workers, both male and female, were fixed at 11 hours a day and 60 hours a week. A 60 hour a week was introduced in pursuance of a special provision relating to India in

<sup>1</sup> For historical study, see (1) Factory Labour in India and Factory Legislation in India by Dr. Rajani Kanta Das, (2) Indian Factory Legislation: A Historical Survey and Indian Factory Law Administration by A. G. Clow, (3) Factory Labour in India by Dr. Ahmed Mukhtar and (4) Reports of the Royal Commission on Labour in India, 1931 and Labour Investigation Committee, Main Report, 1946.

Washington Hours Convention of 1919 (8 hours a day and 48 hours a week). All workers were granted a period of one hour rest for work exceeding six hours, a weekly holiday and no worker should go without a holiday for more than 10 days at a time. The minimum age of children was raised to 12 and a child was defined as a person under 15 years of age and their hours of work limited to 6 a day. In case of overtime, workers should receive at least  $1\frac{1}{2}$  times the normal rate of pay. The employment of women and children under 18 in certain dangerous processes was prohibited.

### **Indian Factories (Amendment) Acts, 1923, 1926, 1931 (IX of 1923, XXVII of 1926, XII of 1931)**

The Indian Factories Act of 1911 was amended in 1923 with a view to effecting some minor changes for administrative purposes and also in 1926 for providing the infliction of penalties on parents or guardians for allowing children to work in two factories on the same day. It was amended again in 1931 empowering Provincial Governments to make rules for providing for precautions against fire inside factories.

### **Factories Act, 1934 (XXV of 1891)**

The Royal Commission on Labour in their Report published in 1931 made several important recommendations for amendment of Indian Factories Act, 1911. The Factories Act, 1934 is a comprehensive measure amending and consolidating all the previous factory legislations of 1881, 1891 and 1911 as amended by Acts of 1922, 1923, 1926 and 1931. The main objects of the Act are (1) reduction of hours of work, (2) improvement of working conditions within the factory and (3) provisions for adequate inspection and strict observance of the Act.

### **Main Provisions of the Factories Act, 1934**

The most important provisions of the Act are following:—(1) It covers all manufacturing establishments employing 20 or more persons and using mechanical power. (2) A distinction has been made between seasonal and perennial factories, the former working for 180 days or less in a year. Different sets of regulations have been prescribed in respect of hours of work. The Act lays down a 54-hour week and 10-hour day for all adult workers in perennial factories and 56 hours a week or 10 hours a day in case of continuous work, but retains a 60-hour week and 11-hour day in seasonal factories. (3) The hours of work of children (persons between the ages of 12 and 15) are reduced from 6 to 5 a day and those of women from 11 to 10 a day both in seasonal and perennial factories. (4) Adolescents who are a new category of young persons between 15 and 17 years of age, may not be employed as adults without a medical certificate of physical fitness. (5) No child is allowed to work in a factory unless he secures a certificate of fitness, from the Certifying Surgeon, and carries with him a token giving reference to such certificate, while at work. The double employment of children in two factories on the same day is prohibited. (6) The period over which a working day may be spread over is fixed at 13 hours a day inclusive of rest intervals in case of adults (male or female) and  $7\frac{1}{2}$  in case of children. Women and children should not be employed before 6 a.m. or after 7 p.m., but the Provincial Government may, by notification in the official Gazette, vary these limits so as to make the working day fall within any span of 13 hours between 5 a.m. and 7-30 p.m. (7) Every adult worker is entitled to a compulsory interval of rest and it is provided that no adult worker shall work for a period of 6 hours, 5 hours and  $8\frac{1}{2}$  hours, without having a rest interval of 1 hour, half an hour or two intervals of half an hour respectively. (8) All factory workers are entitled to a weekly holiday on

Sunday. Exception can be given to adult workers under certain conditions, provided no worker is required to work, for more than 10 days, consecutively, without a holiday, for a whole day. No exemption is allowed in case of children. (9) A worker is entitled to a payment of overtime at the rate of  $1\frac{1}{2}$  times the ordinary rate of pay for work exceeding 54 to 60 hours a week in perennial factory and at the rate of  $1\frac{1}{2}$  times the ordinary rate of pay for work exceeding 10 hours a day in a perennial factory and exceeding 60 hours a week in either a seasonal or perennial factory. (10) The provisions for health and safety have been amplified and made more stringent. Every factory has to ensure cleanliness, proper ventilation, prescribed standard of coolness, regulation of overcrowding of space and adequate lighting arrangements within the factory. Each factory is required to have adequate supply of pure drinking water, proper sanitary arrangements, sufficient supply of water for washing purposes and fencing of dangerous machinery. (11) Provincial Governments have been empowered to make rules (a) requiring a factory employing more than 150 workers to provide adequate rest shelters, (b) requiring any factory employing more than 50 women, to provide creches for their children below 6 and (c) requiring a factory to keep first aid medical appliances and stores under proper custody. (12) The Act provides for a penalty which may extend to Rs. 500/- for contravention of any of its major provisions and enhanced penalty for repeated breach.

#### **Factories (Amendment) Act, 1935 (XI of 1935)**

The Act was amended in 1935 entirely prohibiting night work of women in factories in any capacity whatsoever.

#### **Repealing and Amending Act, 1937 (XX of 1937)**

The Act repealed Section 82 and the Schedule of the Factories Act, 1934.

#### **Factories (Amendment) Act, 1940 (XVII of 1940)**

The Act was amended in 1940 and imposed statutory obligation upon Provincial Governments to extend the provisions of the Act, concerning health, safety, hours of work and conditions of children and adolescents, to power factory employing 10 to 19 persons defined as "small factory". It also empowers the Provincial Governments to declare any premises to be a "small factory" notwithstanding that less than 10 workers are employed in it.

#### **Factories (Amendment) Act, 1941 (XVI of 1941)**

The Act was amended again 1941 to remedy administrative defects and empowered the Provincial Governments to declare the provisions of the Act to any specified class of employments wherein a manufacturing process is being carried on with or without the use of power, employing 10 or more persons.

#### **Factories (Amendment) Act, 1944 (XIV of 1944)**

The Act was amended in 1944 with a view to remedy certain defects and meet some difficulties in the working of the Act and for providing some minor changes regarding health and safety and also temporarily amending the provisions restraining the employment of women and children during night till the termination of hostilities.

#### **Factories (Amendment) Act, 1945 (III of 1945)**

The amended Act introduced substantial change and important provision regarding paid holidays. Annual holidays with pay are the subject of Convention

No. 52 adopted by the International Labour Conference in 1936<sup>2</sup> whereby workers in industrial and commercial undertakings are entitled to an annual paid holiday of at least six working days after one year of service. The Factories Act, 1934 was amended in April 1945 to include a special section dealing with annual paid holidays in respect of all perennial factories registered under the Factories Act. The amendment ensures compensatory holidays to workers deprived of the weekly rest by an exemption of the provisions of section 35 of the Act and enforces an annual paid holidays of 10 days for adults and 14 days for children after one year of service with the possibility of accumulating the holidays for a period of two years. These periods exceeds the minima laid down in the International Labour Code. The holidays under the amended Act can be accumulated for a period of 2 years while there is no provision for such accumulation in the Code. The wages during leave will be calculated according to the definition of the term in the Payment of Wages Act. Half of the wages for holidays will be paid before the worker proceeds on leave and the balance on his return. If the worker entitled to holidays is discharged by his employer before he has been allowed holidays, or if, having applied for and having been refused the holidays he quits his employment before he has been allowed the holidays, the employer has to pay him the amount payable in respect of holidays.

#### **Factories (Amendment) Act, 1946 (X of 1946)**

Though the Washington Convention prescribed a limit of 48 hours a week in industrial undertakings, allowing 60 hours for India, the Factories Act, 1934 prescribes maximum weekly hours of 54 on the basis of the recommendation of the Whitley Commission. The International Labour Conference adopted a Convention No. 47<sup>3</sup> for 40 hours a week in 1935 and some progressive countries like U.S.A., France and Belgium introduced 40-hour week in certain industries. The Factories Act was amended in 1946 reducing the weekly working hours from 54 to 48 in perennial factories and from 60 to 50 in seasonal factories. The daily hour of work is reduced from 10 to 9 in a perennial factory and from 11 to 10 in a seasonal factory. The original Bill<sup>4</sup> provided for payment for overtime at a uniform rate of one and half times the ordinary rate. But the Select Committee<sup>4</sup> unanimously agreed to double the payment for overtime. The amending Act, thus, provides for overtime at the rate of twice the ordinary rate of pay of the workers. The overtime should equitably be on a uniform basis and work in excess of 9 hours a day should be remunerated alike whether in a perennial or seasonal factory, though no overtime payment was previously provided for working over 11 hours a day in a seasonal factory. Provincial Governments have been empowered to permit factories to work beyond the fixed limits in the public interest.

#### **Factories (Amendment) Act, 1947 (V of 1947)**

The Act was amended in 1947 to enable the Provincial Governments to make rules requiring specified factories employing more than 250 persons, to set up canteens in conformity with prescribed standards and conditions. Canteens in industrial establishments are of inestimable value to workers as well as to managements, as by providing inexpensive wholesome food to the workers, they promote their health and well-being upon which the productive efficiency and the welfare of trade in which they are engaged largely depend. The subject was discussed at the Seventh Labour Conference in 1945 which decided in favour of such legislation.

<sup>2</sup> For detailed descriptions of the Conventions and Recommendations adopted by the International Labour Conference, see International Labour Code, 1951.

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, Part V, 23rd Feb., 1946.

<sup>4</sup> For Report of the Select Committee, see *Ibid.*, Part V, 23rd March, 1946.

A Bill<sup>5</sup> was accordingly introduced in the Legislative Assembly on the 28th October 1946 and was passed (V of 1947). The Act also rectified an omission in the Factories (Amendment) Act, 1946 by deleting "non-seasonal" in the proviso to section 34 of the Act.

### **Five-Year Labour Programme of the Government of India**

The Government of India, during the Interim Congress regime, drew up a Five-year Programme<sup>6</sup> of legislative and administrative measures for amelioration of labour conditions in India after the same was discussed and approved at Conferences with Provincial Labour Ministers, of State Ministers and of representatives of employers' and workers' organisations. Under this Programme the Government undertook a thorough revision of the Factories Act, 1934 extending its scope virtually to all work places where work or manufacturing progress is carried on with a view to sale or profit and incorporating provisions regarding health of the workers such as those relating to cleanliness, ventilation, temperature, dangerous dusts and fumes, lighting, control of glare and so forth and also laying down standard for welfare measures such as washing facilities, first aid, canteens, shelter rooms and creches. The U. K. Factories Act, 1937 is being taken as a useful guide for the purpose of the revision of the Factories Act as the former is the most up-to-date and comprehensive piece of legislation and incorporates most of the provisions of I. L. O. Code of Industrial Hygiene.

### **Factory Reform**

Measures to bring the working conditions of factory labour in India up to the standards prevailing in the leading industrial countries of the world are being taken up by a special organisation set up by the Government of India under the Chief Adviser, Factories. The services of Sir Wilfrid Garret, Chief Inspector of Factories and two senior Inspectors of Factories, United Kingdom, were obtained on contract to place the Chief Adviser, Factories Organisation on a sound footing. This Organisation will offer advice to the Central Government, Provincial Governments, States and employers on conditions necessary to ensure the safety and health of the workers and will be available for consultation for all matters relating to design and lay-out of factories and on the standards of housing, factory construction, conditions of work, health and safety precautions, control of dust, etc. It organises training and refresher courses for Factory Inspectors and others interested in the administration of the Factories Act and thus functions as a centre of technical information and advice and as a venue for discussion among Factory Inspectors. It publishes leaflets, pamphlets and bulletins for education of workers and employers in safety, sanitation and welfare works. A Museum of Industrial Safety, Health and Welfare is being set up to serve as a centre of demonstration and a permanent exhibition of methods, arrangements and appliances for promoting safety, health and welfare of industrial workers.

### **Proposal for Overhaul of the Factories Act, 1934**

Under the Factories Act, 1934, factory inspection in the Provinces has been entrusted to Provincial authorities. The Labour Investigation Committee<sup>7</sup> appointed by the Government of India early 1944, in pursuance of a Resolution passed by the Tripartite Labour Conference in September 1943, admitted in their Main Report published in 1946 that the enforcement of labour laws has not been up to

<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, Part V, 2nd November, 1946, p. 241.

<sup>6</sup> For a short resume of the Programme, see Indian Labour Gazette, March and June, 1947 and International Labour Review, May 1947.

<sup>7</sup> Labour Investigation Committee, Main Report (Delhi, 1946).

the mark, the standards of inspection in most Provinces are poor and even the strength of the Inspectorate is miserably small. The existing provisions for ensuring the safety follow the out-of-date U. K. Act of 1889 and are quite inadequate and unsuitable for modern industrial conditions. The U. K. Factories Act, 1937<sup>8</sup> (1 Edw. 8 & 1 Geo. 6, Ch. 67) introduced extensive changes in the sphere of safety which should go to lessen the toll of accidents in industry and local sanitary authorities were entrusted with the enforcing of the sanitary and health provisions of the Act.

### Factories Act, 1948 (LXIII of 1948)

A comprehensive Bill<sup>9</sup> to consolidate and amend the law relating to factory labour was prepared by the Government on the general lines approved in the Ninth Meeting of the Standing Labour Committee and in the light of discussions held with the Provincial Chief Inspectors of Factories and was introduced in the Dominion Assembly on the 3rd December, 1947. The Bill extends the scope to all industrial establishments employing ten or more workers where power is used and twenty or more workers in all other cases and lays down all essential measures, relating to cleanliness, ventilation, lighting, sanitary arrangements, health, safety and welfare of the workers and places the responsibility on the factory owner for taking safety measures in the factory. Plans and specifications for new factories or extension of the existing factories have to be submitted to the Provincial Government and proper arrangement should be made for disposal of wastes and effluents. The Bill was circulated under executive orders for eliciting public opinion and Provincial Governments were asked to forward the comments received from the various bodies with their own views. The Bill was referred to the Select Committee<sup>10</sup> on the 30th January, 1948 which submitted Report on the 9th August 1948. In his speech before the Constituent Assembly (Legislative) on the 30th January, 1948 while moving that the Bill be referred to the Select Committee, the Labour Minister Hon'ble Sri Jagjiwan Ram<sup>11</sup> explained some of the main changes proposed in the existing law and gave an admirable summary of the new Bill.

"The object of the Bill is not only to consolidate the law relating to working conditions in factories but also to introduce certain important new features.

The existing law applies to industrial establishments where manufacturing process is carried on with the aid of power and where twenty or more persons are working. There is an enabling provision authorising Provincial Governments to extend the provisions of the Act to establishments using power and employing ten or more persons. A few Provinces have enacted legislation to regulate factories where power is not used. But even such legislation is applicable only to establishments where 50 or more workers are employed.

It is now proposed that the law relating to factories should be made applicable to all industrial establishments employing ten or more workers where power is used and twenty or more workers in all other cases. As a result of this change the number of establishments subject to control is likely to be trebled. The number of workers to whom the provisions of the Factories Act will extend will increase immediately from twenty-five to thirty-five lakhs. The country is now setting upon an era of industrial expansion. We are all agreed that as far as possible this industrial expansion should not take the form of a limited number of big

<sup>8</sup> Factory Law by H. Samuels (London, 1951) and Redgrave's Factories, Truck and Shops Acts (London, 1949).

<sup>9</sup> For Statement of Objects and Reasons, see Gazette of India, 1947, Part V, pp. 580-585.

<sup>10</sup> For Report of the Select Committee, see *Ibid.*, pp. 551 to 590.

<sup>11</sup> Constituent Assembly of India (Legislative) Debates, 30-1-48 (Vol. I—No. 2, p. 77).

factories but rather of a large number of small industrial establishments dotted all over the country. It therefore becomes necessary that our law relating to factories should be made applicable to the smaller establishments also. It is with this view that the definition has been widened.

The present Act makes a distinction between seasonal and perennial factories. Because the seasonal factories work for only a part of the year there is a tendency to be somewhat lenient in the enforcement of standards relating to safety and health. This is not a satisfactory state of affairs. Whether a factory works for part of the year or for the whole year provisions relating to safety, health and welfare should be equally applicable. We have therefore done away with the distinction between perennial and seasonal factories.

Even with these changes the new definition will not cover all workers. I feel and I am sure the Hon'ble Members will agree with me that regulations relating to cleanliness, ventilation, lighting, supply of drinking water, the provision of sanitary conveniences, fencing machinery, hours of work, weekly day of rest, prohibition of the employment of children, reduced hours of work for adolescents should be applied to all work places, irrespective of the number of people employed. The difficulty in extending these essential provisions is mainly an administrative one. As I have said the new definition of factories will treble the number of establishments subject to control. The Inspectorate will need considerable strengthening. Provincial Governments should be given some time to organise a bigger Inspection service. As soon as satisfactory arrangements are made to secure a proper enforcement of the Act to establishments covered by it, Provincial Governments will be in a position to extend the essential provisions relating to health, safety, welfare, hours of work, age of entry into employment to other work places. To enable them to do so, a provision (S. 86) has been added giving power to Provincial Governments to apply these provisions to any premises where a manufacturing process is carried on with or without the aid of power, except where work is done by the worker solely with the aid of his family.

The elaboration of the provisions relating to health, safety and welfare deserve attention. The existing Act leaves far too many things to be covered by rules or to be done at the discretion of the Inspector. The rules are not always uniform and the discretion cannot be exercised in an uniform way with the result that there are considerable variations in the standards applied to different factories and in different parts of the country. Another serious defect in the existing legislation is that it leaves many matters to be attended to only at the instance of the Inspector. There is no obligation on the factory owner installing new machines, not specifically covered by the rules or notified by the Inspector as dangerous to take any measures for the safety of their workers. With the rapid technological advancements that are taking place installation of new types of machinery and the introduction of new processes will be of frequent occurrence. The adoption of safety measures cannot be postponed till provision is made for them in the rules. The only satisfactory method is to lay on the factory owner a clear and definite responsibility for taking all measures necessary to secure the safety of workers in his factory. If we are to lay this responsibility on the owner the precautions to be taken and the standards to be observed in regard to health and safety means should be clearly prescribed in the Act itself. This is precisely what has been attempted in the Bill. An additional and no less important advantage of this procedure will be the enforcement of a definite and uniform standard in all industrial establishments and throughout the country. Sections relating to the casing of new machinery, hoists and lifts, cranes and other lifting machinery, pressure plant, precautions to be taken against dangerous fumes, explosive or inflammable gases are all new. The obligation relating to the casing of new machinery has been imposed not only on the owner of the factory, but on the manufacturer of the machinery or



his selling agents as well. In the chapter dealing with the disposal of wastes and effluents, the specific provisions relating to ventilation and temperature are new. Similarly the section relating to provision of cool drinking water during hot weather, the employment of cleaners to keep the water closets clean, the obligation to provide sanitary water closets in all establishments are new provisions. In the chapter relating to welfare we have made provision that in every factory when workers are obliged to work in a standing position suitable arrangements for seating should be provided so that they may rest whenever they get an opportunity. Where a worker can work efficiently in a sitting position, the seating arrangement should be provided for him. The sections relating to facilities for storing and drying clothing is also a new one. If the arrangements for the welfare of the workers are to be successfully managed it is essential that workers must realise their responsibilities in the matter and should be actively associated in their management. Section 50 of the Bill provides for such association. An enabling provision has also been made under which the owner of any factory employing 500 or more workers may be required to appoint a suitable Welfare Officer whose specific duty it will be to look after the welfare of the workers. To ensure that the right type of people are appointed and to give them a measure of security and independence Provincial Governments have been given power to prescribe the duties, qualifications and conditions of service of these Officers.

Another important provision to which I would like to invite attention of the House is the one embodied in Section 7 providing for the scrutiny of the places and specifications of factory building and their lay-out by the Factories Inspectorate. We have therefore introduced a section so that before the buildings are erected, the plans and specifications are examined with a view to seeing whether the provisions of law relating to matters of health, welfare and safety have been complied with and proper arrangements will be made to dispose of the waste and effluents.

In regard to employment of workers we have raised the age of entry from 12 to 13. Young persons who have not attained the age of 18 years instead of the present limit of 17 years will be considered as adolescents.

The Chapter dealing with holidays with pay has been revised to provide for the grant of holidays to workers who have done six months' service. This is a new provision. The definition of authorised leave has also been revised to provide for unauthorised absence up to a limit of 20 days in a year. In regard to casual absence due to illness or other reasonable cause it would be sufficient if the worker gives the reasons for his absence within three days from the commencement of such absence. These provisions will remove a source of dispute between employers and workers.

Information in this country regarding occupational diseases is somewhat scanty. The factory owner and the Medical Practitioner attending upon factory employees are the persons who can give useful information. Provision has been made requiring these people to give information regarding accidents in factories causing death or serious injury or of diseases treated. These provisions which are anew, are designed not only to obtain a knowledge of occupational diseases, but also to arrange for such remedial measures as can be taken to prevent their occurrence or reduce their incidence.

Changes have been made in the Penalties Chapter also. The existing law only provides for a fine for contravention of the provisions of the Act. To an employer, a fine is no deterrent, we have therefore provided for imprisonment as well.

These briefly are the main changes that have been introduced in the Bill. We have tried to implement as many of the provisions of the International Labour Organisation Code of Industrial Hygiene as are practicable under Indian condi-

tions. The provisions relating to periodical medical examination of young persons and the submission of plans of factory buildings are also from I.L.O. Conventions. We have also freely drawn upon the British Factories Act, one of the most comprehensive pieces of legislation on this subject. When the Bill is passed into law we would have placed on the Statute Book a Factory Law which, if properly enforced, will secure a marked and distinct improvement in working conditions of labourers."

The Select Committee made certain important changes adding materially to the usefulness of the Bill. The Bill was passed on the 28th August, 1948, received the assent of the Governor-General on the 23rd September 1948 and came into force from 1st April, 1949.

The new Act codifies for the first time, the old international principle that none should employ any worker on any manufacturing process without ensuring his health, safety and welfare. Opinions with regard to the measures to modify the old factory law was divergent, some complained that the Government was going rather too fast in the matter of labour legislation, some felt that these measures were not far reaching enough, while others regarded the new Act as the Charter of the Workers' Rights. The Labour Minister Sri Jagjiwan Ram in his broadcast appeal to the workers and employers from All-India Radio, Delhi on 5th September, 1948 summed up the Government reaction to these criticism as follows, "This enactment is nothing beyond an earnest attempt to secure for factory workers, their elementary rights and basic comforts—simple things which unfortunately have, in many cases, been so blatantly denied to them."<sup>12</sup>

## Important features of the New Act

### Scope

The Act extends to all the Provinces<sup>13</sup> in India and to every Acceding State to the extent to which the Dominion Parliament may make laws for that State with respect to the matters dealt with in the Act. The scope of the Act has been considerably widened to include unregulated factories also. The Act covers all industrial establishments employing 10 or more workers where manufacturing process is carried on with the aid of power, or 20 or more workers in all other cases. The Provincial Government is now authorised to extend the provisions of the Act to any premises where manufacturing process is carried on with lesser number of workers, viz., less than 10 workers if power is used or less than 20 workers if power is not used, except where the work is done by the owner solely with the aid of his family. The distinction between seasonal and perennial factories has been done with. The Act applies to the Central and Provincial Government factories unless otherwise exempted.

### Approval, Licencing and Registration of Factories

As the designs and lay-out of most of the factory buildings and machineries have been found unsatisfactory, a new provision has been introduced enabling the Provincial Government to frame rules regarding approval, licencing and registration of factories for exercising control over compliance with the law in matters relating to health, safety and welfare. Permission has to be obtained from the Provincial Government or the Chief Inspector of Factories for approval of the site on which the factory is to be situated and for its construction and extension after submission of plans and specifications. The registration and licencing of

<sup>12</sup> Indian Labour Gazette, September, 1948, p. 140.

<sup>13</sup> Part B States (Laws) Act, 1951 (III of 1951) has extended the Act to the whole of India except the State of Jammu and Kashmir with effect from the 1st April, 1951.

factories will be made on payment of prescribed fees which are also payable in connection with renewals thereof.

### **Inspecting Staff**

Provincial Government is authorised to appoint persons possessing prescribed qualifications as Inspectors. Some changes have been made in the duties of Certifying Surgeons in connection with examination and certification of young persons and of persons engaged in dangerous occupations or processes and the exercise of medical supervision in any factory where occurrence of occupational diseases has been noticed or is suspected or where there is a likelihood of injury to health owing to adoption of a new manufacturing process or use of a new substance.

### **Health**

The existing chapter on Health and Safety has been split up into three separate chapters each dealing with Health, Safety and Welfare and the sections were re-drafted and amplified prescribing the minimum standards required and introducing several new provisions. New health provisions include measures relating to particular method of cleanliness, disposal of waste and effluents, standard of ventilation and reasonable temperature, dust and fume, lighting, supply of cold and wholesome drinking water, provision of sufficient spittoons of prescribed type in convenient places and sanitary water closets. A minimum working space of 350 cubic feet for each worker in the existing factories should be provided and 500 cubic feet in factories built after the commencement of the Act.

### **Safety**

Detailed new safety measures have been provided ensuring the safety of worker working amidst machinery, to bring the safety requirements up to the accepted standards of industrially advanced countries. The Act places the onus of compliance with the occupier and manager of the factory and non-compliance is liable to heavy punishments. New provisions relate to the fencing of new machinery and measures to be taken in connection with the hoists, lifts, cranes and other lifting machinery, revolving machinery and pressure plant, prohibition of lifting, carrying or moving excessive weights, precautions against dangerous fumes, explosives or inflammable gas, dust, etc., and protection of eyes. Sale or hire of machinery not protected as required is also prohibited.

### **Welfare**

Majority of welfare provisions introduced in the Act are new. In every factory adequate, suitable and clean washing facilities should be provided with separate and screened provisions for male and female workers and also sitting facilities for workers obliged to work in a standing position so that they may take advantage of any opportunity of rest which may occur. The Inspector may direct the occupier to provide seating facilities for worker when he is able to work efficiently in a sitting position. The Provincial Government may make rules for facilities for storing and drying of wet clothing of the workers. First-aid boxes or cupboards in charge of a trained person must be provided and maintained in every factory to the number of one to 150 workers and should be readily accessible during all working hours. An ambulance room containing prescribed equipment and in charge of such medical nursing staff as may be prescribed, must be installed in every factory with more than 500 workers. Provincial Government may make rules requiring factories employing more than 250 workers to provide an adequate canteen prescribing date, standards of con-

struction, accommodation, furniture and other equipment, quality of foodstuff with their charges and constitution of Managing Committee with workers' representatives. The last item is the only change over the Amending Act, of 1947 about provision of canteen. The Act also provides for maintenance in a cool and clean condition by every factory employing over 150 workers, of sufficiently lighted and ventilated, adequate shelters, rest rooms and suitable lunch room with provision for drinking water where workers can eat meals brought by them. Factory employing more than 50 women workers must maintain adequately lighted and ventilated rooms in a clean and sanitary condition for use of their children under 6 years of age. Provincial Government may prescribe rules for location and standards of such rooms including facilities for washing and changing the clothing, supply of free milk or refreshment and feeding of children at necessary intervals by their mothers. Factory employing 500 or more workers must employ such number of Welfare Officers as may be prescribed and Provincial Governments have been authorised to prescribe the duties, qualifications and conditions of service of such Officers for ensuring the appointment of right type of people. Provincial Government may make rules requiring representatives of workers in a factory to be associated with the management of welfare arrangements.

### Working Hours

Working hours of adult worker have been fixed at 48 hours a week and 9 hours a day. No period of work shall exceed 5 hours and a rest interval of at least half an hour must be allowed after 5 hours' work. The spread over inclusive of period of rest shall not be more than 10½ hours. A worker is entitled to payment at the rate of twice his ordinary rate of wages for overtime work. The term "ordinary rate of wages" in connection with overtime pay means basic wages plus such allowances, including cash equivalent of the advantages accruing through the concessional sale to workers of foodgrains and other articles as the worker is for the time being entitled to, but does not include a bonus.<sup>14</sup> The Provincial Government may make rules which shall remain in force for not more than 3 years, exempting adult workers engaged on specified work from certain provisions of hours restriction, but the total number of hours of work for persons exempted (except workers engaged on urgent repairs) should not exceed 10 hours a day, the total number of hours of overtime may not exceed 50 in any one quarter and the spread over inclusive of intervals for rest may not exceed 12 hours in any one day. Double employment of adult worker is prohibited.

The Washington Hours Convention<sup>15</sup> of 1919 limiting hours of work to 8 hours a day has not even been followed. Though 40-Hour Week Convention of 1935 (I.L.O. Convention No. 47) cannot be adhered to like U.S.A., France, Belgium and other advanced and industrially developed countries, a 44-hour week

<sup>14</sup> The interpretation of the term "ordinary rate of pay" in the 1934 Act was for sometime past a matter of dispute between the employers and the Government. The employers were definitely of opinion that it would mean only the basic pay or wages, but the Government interpreted that it included the dearness and other allowances which might be in force at the time. The new Factories Bill defined it as basic pay and such allowances as the worker was for the time being entitled to, but did not include a bonus. The Select Committee made the position clear beyond doubt and amplified it by including within its meaning all payments and concessions made to a worker whether in cash or in kind except bonus.

<sup>15</sup> The first International Labour Conference held in Washington in 1919 adopted a Convention limiting the hours of work in industrial undertakings to 8 in a day and 48 in a week, but, by a special article, allowed India to adopt a 60-hour week having regard to the conditions then prevailing in the country. Weekly limit to working hours in factories was unknown in India prior to 1922 when a 60-hour week was first introduced in pursuance of the special provision relating to India in the Washington Hours Convention by an Amendment (Act II of 1922) of the Indian Factories Act, 1911.

with 8 hours on week days and 4 hours on Saturday could have been introduced. Burma is the only Asian country which has adopted 44 hours in a week and 8 hours in a day. The Factories Act, 1951 (65 of 1951) of the Union of Burma, which has closely followed the Indian Factories Act of 1948 has fixed the working hours of adults in a factory to 44 hours in a week and 8 hours in a day subject to a proviso that an adult male worker in a factory engaged in work which for technical reasons must be continuous throughout the day may work 48 hours in a week.

#### **Employment of Women<sup>16</sup>**

The Act prohibits exemption of women workers from the provisions of 9 hours a day. Such women should be employed between 6 a.m. and 7 p.m. Provincial Government may vary the limits but no such variation shall authorise employment between the hours of 10 p.m. and 5 a.m. except in fish-curing and fish-canning factories.

#### **Employment of Young Persons<sup>16</sup>**

The minimum age for employment of a child worker is raised from 12 to 14 years and the age limit of adolescent is raised from 17 to 18 years. The term "young person" is now used to denote a worker between 14 and 18 years of age. The provisions relating to certificate of fitness for employment of young persons under 18 years of age have been strengthened and provide for their adequate medical examination before employment and also for annual examination. The issue or renewal of a certificate of fitness is subject to conditions in regard to nature of work of young persons and require re-examination before expiry of 12 months. Adolescent (persons between 15 to 18 years of age) cannot work as adult without a medical certificate of fitness. The working hours of child (person under 15 years of age and adolescent not qualified to work as adult) have been fixed at 4½ hours a day and he is not permitted to work between 7 p.m. and 6 a.m. The period of work is limited to two shifts which must not overlap or spread over more than 5 hours each and each child shall be employed in only one of the relays. No exemption from the provisions of weekly holidays can be granted for child workers. These provisions are in additions to those of Employment of Children Act, 1938. A young person is prohibited to work at a dangerous machine unless he has been fully instructed about the dangers arising in connection with the machine and precautions to be observed and has received sufficient training in work at the machine or is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

#### **Leave with Wages**

The provisions regarding holidays with pay have been radically changed and substantially recast. The leave rules of the Federal Railways being more liberal, these provisions shall not apply to any workshop of Federal Railway. The Act lays down that its provisions relating to leave with wages shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service. Where any award, agreement or contract of service provides for longer leave with wages than provided under the Act, the worker shall be entitled to such longer leave. A worker with 12 months continuous service is entitled during the subsequent period of 12 months annual leave with wages calculated at the rate of one day for every 20 days of work during the previous 12 months up to a minimum of 10 days for an adult and one day for every 15 days subject to a minimum of

<sup>16</sup> See also Notes on the Factories (Amendment) Act, 1954, pp 16-18.

14 days for a child, these days being inclusive of any holiday which may occur during such period. A worker whose services are terminated after completing 4 months but less than 12 months' continuous service, is entitled to proportionate paid leave. A worker shall apply in writing to the Manager not less than 15 days before taking leave and the total leave may be taken in 3 instalments instead of in a continuous period as before. Worker in public utility services has to apply at least 30 days before. If a worker entitled to leave or having applied for but not granted such leave, is discharged before taking leave, he shall be paid wages for his due leave period before the expiry of the second working day of the termination of his services. A worker shall be deemed to have completed period of continuous service inspite of interruptions brought by (i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of the period, (ii) a strike which is not an illegal strike or lockout, (iii) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period and (iv) leave admissible or granted under any other law. "Authorised leave" includes casual absence due to any reasonable cause and also unauthorised absence not exceeding in the aggregate one thirty-six of the period of the continuous service provided that the worker gives the reason of his absence in writing to the manager within a week from its commencement. Leave shall not include weekly holidays or holidays for festivals or other occasions except as provided for annual leave.

Wages during leave period will be at a rate equal to the daily average of the worker's total full-time earning, exclusive of overtime earnings and bonus but inclusive of dearness allowance and cash equivalent of any advantage, for the days worked during the month immediately preceding the leave. The wages due to a worker for a period of leave for not less than 4 days in case of an adult and 5 days in case of a child, should be paid in advance<sup>17</sup> before the leave begins. The Inspector may institute proceedings on behalf of the workers for recovery of advance wages in case of employer's default.

As the provisions relating to annual leave with wages have been causing considerable difficulty in determining 12 month's "continuous service" for eligibility to leave with wages, Factories (Amendment) Bill, 1953 was introduced to simplify the provisions for removing the difference between the employers and the employees. The Factories (Amendment) Act, 1954 (XXV of 1954) received the assent of the President on the 7th of May, 1954.<sup>18</sup>

#### **Other Provisions re. Occupational Diseases, Accidents, etc.**

New provisions have been introduced authorising Provincial Government to make rules providing for periodical medical examination of workers in certain dangerous trades and for restricting or controlling use of specified materials or processes with a view to control occupational diseases such as lead poisoning, anthrax, silicosis, etc. It is obligatory on the part of the factory managers to give information regarding specified accidents which cause death or serious bodily injury or regarding occupational diseases contracted by the employees. Medical practitioners attending on the factory workers suffering from occupational diseases are also required to report such cases to the Chief Inspector of Factories. The Provincial Government has been authorised to direct enquiry into the causes of accidents or into any case of occupational disease. Inspectors are authorised to take a sufficient sample of substances used in the manufacturing process if the use is either contrary to the provisions of the Act or likely to cause bodily injury or

<sup>17</sup> The 1934 Act allows advance payment of half of the total pay due for the period of holidays. The new Bill also endorsed it but limited to holidays for not less than 6 days. The Select Committee made the above amendment.

<sup>18</sup> See also Notes on the Factories (Amendment) Act, 1954, see pp. 16-18.

disease, for examination. Wrongful disclosure of results of analysis is punishable with imprisonment up to 3 months or with fine up to Rs. 500/- or both. The Act gives Central Government powers of directions over the Provincial Governments for carrying out the provisions of the Act.

### **Penalties and Procedure**

The old Act only provides for a fine for contraventions of the provisions of the Act. The new Act provides for imprisonment up to 3 months or a fine up to Rs. 500/- or both for the first offence and up to 6 months or a fine up to Rs. 1000/- or both for the second and subsequent offence. Complaints should be made within 3 months of the commission of the offence to the knowledge of the Inspector or 6 months in the case of disobedience to Inspector's written order.

### **Obligations of Workers**

Where lunch room exists, worker should not eat any food in the work room. New provisions have been added placing some obligations on the workers and contravention is punishable with imprisonment up to 3 months or with fine up to Rs. 100/- or both. Workers contravening any provision of the Act or any Rules or orders made thereunder imposing any duty or liability, shall be punishable with fine extending to Rs. 20/-. When a worker is so convicted, the occupier or manager shall not be deemed to be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable measures for its prevention.

## **Amendments to the Factories Act, 1948**

### **Repealing and Amending Act, 1949 (XL of 1949)**

Some minor changes in Sections 7(3), 55, 79(4) and 82 as well as the language of Section 1(2) viz., application of the Act, were made.

### **Adaptation of Laws Order, 1950**

Section 1(2) of the Factories Act, 1948 was amended by the above Order and also some other minor changes and the Act was extended to the whole of India, except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin.

### **Repealing and Amending Act, 1950 (XXXV of 1950)**

Section 119, viz. Amendment of Section 3 of the Employment of Children Act, 1938 and the Table of Enactments were repealed.

### **Part B States (Laws) Act, 1951 (III of 1951)**

Section 1(2) was amended by the above Act and the Factories Act, 1948 has now been extended to the whole of India except the State of Jammu and Kashmir with effect from the 1st of April, 1951.

### **Factories (Amendment) Act, 1954 (XXV of 1954)**

The Government of India having ratified the I.L.O. Conventions No. 89 Night Work (Women) Convention (Revised), 1948 and No. 90 Night Work of Young Persons (Industry) Convention, 1948, introduced a Bill further to amend the Factories Act, 1948 for amending Sections 66, 70 and 71 of the Act to give effect to the provisions of the Conventions. The Government also took the opportunity to replace the Chapter VIII of the Act relating to annual leave with wages, as these provisions have been causing considerable difficulty particularly in determining the 12 months' "continuous service" for eligibility of leave with wages and as there is a cause of difference of opinion between the employers and workers in this respect. Some other amendments were incorporated for removing some

practical difficulties experienced in the working of the Act during the last four and half years.

A period of 240 days has been fixed as the minimum attendance necessary during a calendar year beginning with the 1st of January of each year. Leave with wages will be calculated at the rate of one day for every 20 days of work performed by an adult worker during the previous calendar year and one day for every 15 days of work by a child.<sup>19</sup> The period of lay-off or of maternity leave or leave earned in the year prior to that in which it is enjoyed, shall be included in computing the period of 240 days or more but leave cannot be earned for these periods. The leave admissible is exclusive of all holidays which may occur during or at either end of the period of leave. Proportionate leave will be granted to any worker whose services commence after the beginning of the calendar year provided he has worked for two-thirds of the total number of days in the remainder of the calendar year. A worker, discharged or dismissed from service during the course of the year, is entitled to leave with wages at the rate of 1 day for 20 days of work (adult) and 1 day for 15 days of work (child) even if he has not worked for the entire period of 240 days or two-third of this qualifying period. The annual leave with wages may be availed of by the worker to cover periods of sickness also. The maximum period of leave which can be carried forward to the succeeding year has been doubled. Leave is now accumulative up to an extent 30 days for an adult and 40 days for a child and this was 15 days and 20 days respectively before this Amendment.

While moving the Factories (Amendment) Bill as passed by the Council of State, in House of the People on the 27th April 1954, the Labour Minister, Shri V. V. Giri<sup>20</sup> explained the proposed amendment to Chapter VIII relating to leave with wages as follows:—

“Another important amendment is the revision of Chapter VIII relating to leave with wages. This is with a view to simplify the provisions and thus to remove the frequent differences of opinion that now occur between employers and workers. Under the existing provisions, a worker has to put in 12 months' continuous service for eligibility to leave with wages. The determination of “continuous service” has, however, been causing considerable difficulty as interruptions on account of various causes such as sickness, involuntary unemployment, etc., have to be reckoned with. A large number of representations have been received from workers against the provision relating to ‘continuous service.’ Suggestions have also been received that the workers should be entitled to leave with wages without any condition of qualifying service and that the rate of earning leave with wages should be increased. I would like to point out here that the I.L.O. Convention on Leave with Wages prescribes continuous service for a year as a pre-requisite to earning leave. The object of leave with wages is to give to the worker an opportunity of rest and recuperation. At the same time, the terms of leave should be such as to encourage regular attendance. It is, therefore, proposed to fix 240 days work in a calendar year as the minimum attendance necessary to qualify for leave with wages. This will still leave 125 days in a year to account for absence for various reasons. Periods of lay-off, maternity leave up to 12 weeks in the case of female workers and the leave earned by a worker in the year prior to that in which the leave is enjoyed are proposed to be counted towards the qualifying period of 240 days mentioned above. This condition of qualifying service will not be applicable to workers who are discharged or dismissed by the employer in the course of the year. It is also

<sup>19</sup> Factories Act, 1934 as amended by the Factories (Amendment) Act 1946 allowed 10 days annual holidays with pay for adult and 14 days for child with effect from 1st of January, 1946 and this can be carried over to the succeeding year.

<sup>20</sup> Parliamentary Debates, House of the People, Vol. IV, Part II, pages 5816-5817.



proposed to make it clear in the new provisions that the annual leave with wages admissible under the Act is exclusive of holidays occurring during or at either end of the period of leave. Provision has been made for the grant of proportionate leave to workers whose service commences after the beginning of the calendar year. The limit of the leave that can be carried forward has also been raised as it is felt that workers cannot afford to go on leave very often and that when they go, they prefer to be away for comparatively long periods. It is also proposed to provide that where a worker requires leave to cover a period of illness, no prior notice of leave, as required under the existing provisions, should be necessary. The sums payable by an employer on account of leave with wages have been made recoverable as if they were wages under the Payment of Wages Act."

### **Administration and Strengthening of Factory Inspectorate**

The Labour Investigation Committee has strongly criticised the standard of enforcement of factory laws. "However, it is a regrettable fact that the enforcement of labour laws have not been up to the mark and although much has been done by way of putting the workers' right on the Statute Book, on the whole the worker has not been able to obtain a fair deal. His illiteracy, ignorance and unhealthiness has been availed of by some employers who have been able to break or disregard the law with impunity."<sup>21</sup> The Committee remarked that the evasions of the provisions of law were largely due to the inadequacy of factory inspectorate. The question of adequate factory inspection was discussed in the Conferences of Chief Inspectors of Factories and Provincial and States Labour Ministers and special stress was placed on the immediate necessity of strengthening of the factory inspection services for proper and efficient enforcement of the Act. It was suggested that the standard strength of Factory Inspectorate should be one Inspector for every 150 to 200 factories.

The Planning Commission in their First Five Year Plan recommended that that the main emphasis should be on a proper implementation of the Factories Act by strengthening the Factory Inspectorate and by giving more attention to the social aspect of the legislation and also to areas and industries in which sub-standard conditions still prevail. The Commission also recommended appointment of full-time medical inspectors in the Factory Inspectorate for effective implementation of the provisions relating to medical supervision and occupational health.

The enforcement of the new Factories Act has brought under its purview a large number of small factories hitherto not covered by any legislation. With the increase in the number of factories governed by the Factories Act, 1948 the responsibility of the Factory Inspectorates in the various States has also increased. Inadequate inspecting staff is mainly responsible for a large number of factories remaining uninspected every year. Of late the position is gradually improving on account of increase of the inspecting staff who continues to lay special stress on the working hours, health, safety and welfare provisions of the Act and tries to enforce the same effectively by launching prosecution proceedings against defaulters in the various States.

Adequate training of Factory Inspectors have been arranged in some of the industrially advanced countries under the various foreign Technical Assistance Programmes. Training and refresher courses are being held by the organisation of Chief Adviser, Factories for the benefit of the inspecting staff.

### **Planning Commission and Central Labour Institute**

The Planning Commission recommended setting up of a National Museum of Industrial Safety, Health and Welfare, with a view to implement properly the

<sup>21</sup>Labour Investigation Committee, Main Report, p. 9.

various provisions of the Factories Act and to provide a centre of information for inspectors, employers, workers and others concerned with the well-being of industrial labour and to stimulate interest in the application of the principles of industrial safety, health and welfare. The Museum, as a centre of demonstration with exhibits covering all aspects of working conditions and with its library and information section, should serve as a nucleus of an Institute for conducting specialised scheme of training and education in labour problems.

The Government of India accepted the above recommendation and decided to set up the Central Labour Institute. The proposed Institute will comprise a Museum of Industrial Safety, Health and Welfare, an Industrial Hygiene Laboratory, a Training Centre and a Library-cum-Information Centre. The Productivity Centre and the Training-within-Industry Centre which are being set up with the assistance of the I. L. O. will be attached to the proposed Institute. Mr. N. S. Mankiker, Chief Adviser, Factories, Ministry of Labour will be in charge of this Institute. The Prime Minister of India laid the foundation stone of the Institute in Bombay on the 7th October, 1954.

### **I. L. O. Industrial Safety Code<sup>22</sup>**

A Technical Tripartite Conference under the auspices of the I.L.O. was held in Geneva on the 27th September 1948 to examine the Draft Model Code of Safety Regulations for factories with a view to the adoption of a text suitable for international application. The drafting of the Model Code was completed and after final approval, was sent to the different Governments for their guidance in the drafting of laws and regulations on industrial safety.

### **I.L.O. Convention and Recommendation on Labour Inspection**

The International Labour Organisation on the 11th July, 1947 adopted one Convention (No. 81) and one Recommendation (No. 81) concerning Labour Inspection in Industry and Commerce, after accepting India Government's suggestion that the function of the Labour Inspection Organisation should not be confined to the enforcement of the existing legal provisions relating to the conditions of work and the protection of the workers but they should also extend to drawing the attention of the competent authorities towards defects or abuses not specifically covered by the existing labour legislation. The Convention has recently been ratified by India.

### **Asian Regional Conferences on Labour Inspection**

In pursuance of the Resolution adopted at the Preparatory Asian Regional Conference of the International Labour Organisation held in New Delhi in 1947, a Preparatory Conference on Labour Inspection in Asian countries was held at Kandy in Ceylon in November, 1948. The Conference discussed the three aspects of labour inspection with special reference to (a) recruitment and training of labour inspectors, employment of women in labour inspection services, (b) role of inspectorate in the enforcement of measures intended to ameliorate working and living conditions and (c) standardisation of the collection and publication of information obtained by labour inspectors in various countries. The Conference decided to bring to the attention of the authorities concerned the need for ensuring that the strength of the Inspectorates and the facilities at their disposal should keep pace with tasks they have to perform in view of the expansion and development of labour and social legislation in the Asian countries.

<sup>22</sup> Model Code of Safety Regulations for Industrial Establishments for the Guidance of Governments and Industry, 1949 and Safety in Factories, 1949.

The Asian Regional Conference held at Nuwara Eliya, Ceylon, in January, 1950, adopted a Resolution on the 24th January 1950 concerning Labour Inspection requesting the Asian Members of the International Labour Organisation to ratify the Labour Inspection Convention, 1947 and to accord to the Labour Inspectors a status among the social services of the State commensurate with their responsibilities with a view to enable them to discharge their functions adequately and to carry out propaganda and public education of the employers and workers and to institute national health and safety exhibits and museums and to take appropriate steps to secure the training of inspectors and keeping them fully informed of latest developments in sphere of industrial problems of health, safety and welfare by means of technical training centres, refresher courses for inspectors and periodical conferences of inspectors.

### **Rules under the Factories Act, 1948**

The Draft Model Rules framed by the Chief Adviser, Factories, for the guidance of Provinces and States (at present Part A States and Part B States) were discussed at the Seventh Conference of the Chief Inspectors of Factories held in New Delhi on the 15th September 1948. In the light of the discussions, the draft Rules were revised and forwarded to the Chief Inspectors of Factories for comments. The comments received were further discussed at a Conference of the Chief Inspectors of Factories and forwarded to the Provincial and States Governments for adoption. Both the Conferences were unanimous about the necessity of securing uniformity in the matter of factory regulations throughout the country and with this object in view the Model Rules were framed. The Provincial Governments have been requested to forward their suggestions for any change to the Draft Rules, if considered absolutely essential, to the Government of India with their own views along with the comments and objections received from the public. The Schedules included in the Draft Rules are not exhaustive but only illustrative and will be supplemented to suit local needs. The Chief Adviser, Factories, has issued a Guide to the Safety Provisions of the new Act. There are provisions prescribing certain measures requiring considerable time to implement and the Provincial Governments have been granted powers to prescribe a date from which such provisions will take effect. The general view expressed in the Conferences of the Chief Inspector of Factories regarding license fees was that the same should be fixed on the basis of horse power installed and the number of persons employed and that there should be an uniform scale of fees for all Provinces and States. The duties of Inspectors were also discussed and it was thought desirable to deal with the same by executive instructions of confidential or semi-confidential nature.

All Part A States and Part B States and majority of Part C States have framed Rules under Section 112 and other enabling powers under the provisions of the Factories Act, 1948. These Rules are not all uniform but are made according to local conditions.

### **Factory Employment**

The Chief Inspector of Factories responsible for the administration of the Act, submits Annual Report to the State Government showing the enumeration of factories, inspections, employment, etc. on the basis of the returns received from the employers. Statistics of employment position in factories are also being published in the Indian Labour Gazette<sup>23</sup> from time to time. The following statement shows the number of factories covered by the Factories Act, 1934 and

<sup>23</sup> Indian Labour Gazette, Vol. V, 1947-48, p. 222 for 1939 to 1945, Vol. VI, 1948-49, p. 345 for 1946 and 1947, Vol. VIII, 1950-51, p. 907 for 1948 and 1949, Vol. X, 1952-53, p. 911 for 1950, Vol. XI, 1953-54, p. 837 for 1951 and Vol. XII, 1954-55, p. 1 for 1952.

the Factories Act, 1948 and the average daily number of workers employed therein from 1939 to 1952.<sup>24</sup>

Year.	No. of Factories	Average Daily Number of Workers Employed.
1939	10,466	1,751,137
1940	10,919	1,844,428
1941	11,868	2,156,377
1942	12,527	2,282,288
1943	13,209	2,436,312
1944	14,071	2,522,753
1945	14,761	2,642,977
1946	13,377	2,213,555
1947	14,023	2,235,138
1948	15,906	2,360,201
1949	19,829	2,433,988
1950	27,754	2,504,399
1951	30,836	2,536,970
1952	30,186	2,443,449

# FACTORIES ACT—TABLE OF COMPARISONS

*Showing the Sections of the Factories Act, 1948 (LXIII of 1948) corresponding to the Sections of the Factories Act, 1934 (XXV of 1934) and the Indian Factories Act, 1911 (XII of 1911) and U.K. Factories Act, 1937.*

Act LXIII of 1948.	Act XXV of 1934.	Act XII of 1911.	U.K. Factories Act, 1937
1	1	1	151, 152, 156
2	2	2	
3	3		
4	6	53	151
5	8	56	80
6			
7	9	33	113
8	10	4	122
9	11	5	123
10	12	6 & 7	126
11	13		1
12			
13	14, 16		3, 4
14	14	10	27, 28, 47
15	15	12	
16	17		2
17	18	11	5
18	19	14	41
19	20	13	7
20			
21	24	18	12, 13, 14, 15, 16
22	27		15, 20
23	28		21
24			

<sup>24</sup> The figures from 1939 to 1946 relate to British India, while the figures for 1947 relate to the Dominion of India except East Punjab and the figures from 1948 to 1952 relate to Indian Republic. All working factories in different States are not submitting returns.

# FACTORIES ACT—TABLE OF COMPARISONS—(Contd.)

Act LXIII of 1948.	Act XXV of 1934.	Act XII of 1911.	U.K. Factories Act, 1937
25			19
26			17
27	29	20	22
28			23, 24
29			30, 31
30			25, 26
31			25
32	21	15	56
33			49
34			27, 47
35			28
36			55, 56, 57
37	22, 23	16, 17	
38	25	18A	
39	26		
40	32		38
41	19		42
42			43
43			44
44			45
45			45
46	33A		
47			
48			
49			
50			46
51	34	27	
52	35	22	
53	35A		
54	36	28	
55	37	21	
56	38		
57	46		
58	49		
59	47	31	
60	48		
61	39, 40		72
62	41	35	116
63	42		114
64	43	29	81 to 97
65	44	30	80
66	45	32A	70
67	50	23 (a)	
68	51	23 (a)	
69	52		99
70	53		
71	54	23 (c), 21 (2)	
72	55		
73	56		
74	57		
75	58		
76	59		

FACTORIES ACT—TABLE OF COMPARISONS—(Contd.)

Act LXIII of 1948.	Act XXV of 1934.	Act XII of 1911.	U.K. Factories Act, 1937
77			
78	49A		
79	49B		78
80	49C		
81	49D		
82	49E		
83	49F		
84	49G		
85	5		151
86			104
87	33 (4)		57 to 60
88	30	34	64
89			66
90			68
91			62
92	60		130, 131
93			139
94	61		
95	63	43	123 (3), (4)
96			62 (4)
97			119
98	67	44	135
99	68	44A	134
100	70		
101	71	42	136, 137
102			132
103	72	46	142
104	73	47	
105	74	48	
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107	31		141
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110	77	38	118
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115	79	39	
116	80	54	150
117	81	58	
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120	82	59	

FACTORIES ACT, 1948 (LXIII OF 1948)

Statement of Object and Reasons<sup>25</sup>

The existing law relating to the regulation of labour employed in factories in India is embodied in the Factories Act, 1934. Experience of the working of the Act has revealed a number of defects and weaknesses which hamper effective administration. Although the

<sup>25</sup> Gazette of India, 1947, Part V, pp. 580-585.

Act has been amended in certain respects in a piece-meal fashion whenever some particular aspect of labour safety or welfare assumed urgent importance, the general framework has remained unchanged. The provisions for the safety, health and welfare of workers are generally found to be inadequate and unsatisfactory, and even such protection as is provided does not extend to the large mass of workers employed in work-places not covered by the Act. In view of the large and growing industrial activities in the country, a radical overhauling of the Factories law is essentially called for and cannot be delayed.

The proposed legislation differs materially from the existing law in several respects. Some of the important features are herein mentioned. Under the definition of "Factory" in the Act of 1934, several undertakings are excluded from its scope but it is essential that important basic provisions relating to health, working hours, holidays, lighting and ventilation, should be extended to all work-places in view of the unsatisfactory state of affairs now prevailing in unregulated factories. Further the present distinction between seasonal and perennial factories which has little justification has been done away with. The minimum age of employment for children has been raised from 12 to 13 and their working hours reduced from 5 to 4½, with powers to Provincial Governments to prescribe even a higher minimum age for employment in hazardous undertakings.

The present Act is very general in character and leaves too much to the rule-making powers of the Provincial Governments. While some of them do have rules of varying stringency, the position on the whole is not quite satisfactory. This defect is sought to be remedied by laying down clearly in the Bill itself the minimum requirements regarding health (cleanliness, ventilation and temperature, dangerous dusts and fumes, lighting and control of glare, etc.), safety (eye-protection, control of explosive and inflammable dusts, etc.), and general welfare of workers (washing facilities, first aid, canteens, shelter rooms, creches, etc.) amplified, where necessary, by rules and regulations to be prescribed by Provincial Governments.

Further the present Act leaves important and complex points to the discretion of Inspectors placing heavy responsibility on them. In view of the specialised and hazardous nature of the processes employed in the factories, it is too much to expect Inspectors to possess an expert knowledge of all these matters. The detailed provisions contained in the Bill will go a long way in lightening their burden.

Some difficulties experienced in the administration of the Act, especially relating to hours of employment, holidays with pay, etc., have been met by making the provisions more definite and clearer. The penalty clauses have also been simplified. An important provision has also been made in the Bill empowering Provincial Governments to require that every factory should be registered and should take a licence for working to be renewed at periodical intervals. Provincial Governments are further being empowered to require that before a new factory is constructed or any extensions are made to an existing one, the plans, designs and specifications of the proposed construction should receive their prior approval.

It is expected that the Bill when enacted into law will considerably advance the condition of workers in factories.

The substantial changes made in the existing law are also indicated in the Notes on Clauses. Opportunity has also been taken to rearrange the existing law and to revise expressions, where necessary.

### Notes on Clauses<sup>26</sup>

#### CHAPTER I—PRELIMINARY.

Clause 2—Cf section 2. The age limit in the case of 'adults and adolescents' has been raised from 17 to 18 years. The interpretation of the item 'machinery' has been widened by bringing in 'prime movers' and 'transmission machinery' and the interpretation of the term 'factory' has been modified so as to cover those establishments which employ ten or more persons every day.

Clause 3—Cf section 3.

Clause 4—Cf section 7. The only change is in respect of reference to the number of persons employed.

Clause 5—Cf section 6.

Clause 6—Cf section 8.

<sup>26</sup> In these Notes section denotes a section of the Factories Act, 1934. The Report of the Select Committee on the Factories Bill, 1948 published in the Gazette of India, 1947, Part V, pp. 551-590 made several changes and re-arranged some clauses of the Bill.

Clause 7—This is a new clause. As designs of most of the factory buildings and layout of machinery have been found unsatisfactory and the building materials used not suited to climatic conditions of the place which made working conditions unusually trying, this clause regarding approval, licensing and registration of factories is considered very necessary.

Clause 8—Cf section 9.

## CHAPTER II—THE INSPECTING STAFF.

Clause 9—Cf section 10.

Clause 10—Cf section 11.

Clause 11—The existing section 12 has been amplified by laying down the duties of the Certifying Surgeons more clearly.

## CHAPTER III—HEALTH ; CHAPTER IV—SAFETY AND CHAPTER V—WELFARE.

The existing Chapter III relating to 'Health and Safety' has been split up into three separate chapters each dealing with Health, Safety and Welfare of workers. The clauses in these chapters have been redrafted and amplified prescribing the minimum standards required.

## CHAPTER VI—WORKING HOURS OF ADULTS.

Clause 51—Cf section 34. The noticeable change is that the distinction between 'seasonal' and 'non-seasonal' factories has been removed. Also the words 'allowed to work' wherever they occur in the existing Act have been substituted by the word 'employed' so as to obviate the plea that when the occupier was absent at the time he could not have 'allowed the worker to work'.

Clause 52—Cf section 35.

Clause 53—Cf section 35A. A time limit has been fixed within which a compensatory holiday must be given.

Clause 54—Cf section 36. The proviso has been omitted as it is proposed to do away with the distinction between 'seasonal' and 'non-seasonal' factories.

Clause 55—Cf section 37. As hours of daily work have been reduced to nine, the period of work before rests has been reduced to five and the Provincial Governments have been empowered to prescribe higher limit of rest up to one hour in case where they consider a longer rest interval is necessary. The existing section 37 has been redrafted to provide for this.

Clause 56—Cf section 38.

Clause 57—Cf section 46. This has been redrafted in order to make it clear that a continuous rest period of twenty-four hours will be counted as a day's holiday.

Clause 58—Cf section 49.

Clause 59—Cf section 47. In this clause also the distinction between 'seasonal' and 'non-seasonal' factories has been removed.

Clause 60—Cf section 48.

Clause 61—Existing sections 39 and 40 have been combined and redrafted with verbal changes.

Clause 62—Existing section 41 has been redrafted with verbal changes. It has been made obligatory on the part of the Managers to show the registers to the Inspector at all times during working hours.

Clause 63—Cf section 42.

Clause 64—Cf section 43. In para (h) of sub-clause (2) the workers attending to power-plant or transmission machinery have also been included for purposes of exemption.

Clause 65—Cf section 44.

Clause 66—Cf section 45. The second proviso in sub-section (1) of the existing section 45 has been omitted to conform to the deletion of the distinction between 'seasonal' and 'non-seasonal' factories.

Clause 67—This is a new clause enabling the Provincial Governments to make rules to supplement Chapter VI.

## CHAPTER VII—EMPLOYMENT OF YOUNG PERSONS.

Clause 68—Cf section 50. The minimum age has been raised to thirteen.

Clause 69—Cf section 51.

Clause 70—The existing section 52 has been redrafted and the provisions regarding the examination and re-examination of young persons and grant of certificates of fitness to them tightened. To avoid unnecessary work on the Certifying Surgeon it has also been provided that he will examine only those young persons who produce a certificate from the Manager that he will be employed in his factory if found fit.



Clause 71—Cf section 53.

Clause 72—As the hours of work of adults have been reduced to nine, the half-time period of a child has also been reduced to 4½ hours. The existing section 54 has been redrafted to provide for this change. A new sub-clause has also been added to prevent overlapping shifts in the case of children.

Clause 73—Cf section 55, sub-section (4) of the existing section has been omitted as it is covered by sub-clause (8) of clause 61.

Clause 74—Cf section 56. As in the case of clause 62, it has been made obligatory on the part of the Managers to make available the registers to the Inspector at all times during working hours.

Clause 75—Cf section 57.

Clause 76—Cf section 58.

Clause 77—Cf section 59.

Clause 78—Cf section 59C.

#### CHAPTER VIII—HOLIDAYS WITH PAY.

Clause 79—The reference to 'Seasonal Factory' in the existing section 49A has been omitted and that section has been redrafted to exclude persons working in a manufacturing process which is ordinarily carried on for less than 180 days in a year.

Clause 80—The existing section 49B has been completely recast and expanded to remove the practical difficulties, which were experienced in its working. It provides for the grant of holidays in two spells to cover the needs of workers. It also provides for the grant of proportionate holidays to workers whose services have been terminated but who have completed six months continuous service. Provision has also been made for condoning unauthorised absence up to 20 days.

Clause 81—Cf section 49C.

Clause 82—Cf section 49D. Advance payment of half the pay has been limited to holidays for not less than six days.

Clause 83—Cf section 49E.

Clause 84—Cf section 49F.

Clause 85—Cf section 49G. The question whether the factory leave rules are substantially similar to those provided for in the Bill is left to be decided by the Provincial Governments in future.

#### CHAPTER IX—SPECIAL PROVISIONS.

Clause 86—This is partly a replacement of the existing sections 59A and 59B. The basic provisions regarding health, safety and welfare have been made applicable to all work places irrespective of the number of workers employed and excludes premises where processes are carried on by the occupier with the aid of his family only.

Clause 87—The heading of the existing section 33(4) has been changed from 'Hazardous operations' to 'Dangerous operations' and a new sub-clause enabling the Provincial Governments to make rules prohibiting, restricting or controlling the use of any specified materials or processes in connection with the dangerous operations has been added.

Clause 88—Cf section 30. For the words 'forty-eight hours' in the existing section the words 'seventy-two hours' have been substituted.

Clause 89—This is a new clause which has been inserted with a view to control industrial diseases.

Clause 90—This is a new clause. It empowers the Provincial Governments to require a formal investigation in the case of serious accidents.

Clause 91—This is new clause intended to facilitate investigation of cases involving contravention of the safety provisions.

#### CHAPTER X—PENALTIES AND PROCEDURE.

Clause 92—The existing section 60 has been redrafted with a view to make the breach of any section or of any rule or order made under the Act an offence which can be punished with imprisonment or fine or with both.

Clause 93—This is a new clause defining the liability of the owner of the premises in certain circumstances.

Clause 94—Cf section 61. The limit of fine has been raised and provision has been made for awarding imprisonment for a period of one year.

Clause 95—This is a new clause intended to cover offences involving several persons.

Clause 96—Cf section 63.

Clause 97—This is a new clause prescribing penalty for disclosing the results of analysis made under clause 91.

- Clause 98—This is a new clause prescribing penalty for offences committed by workers.  
 Clause 99—Cf section 67. Punishment includes imprisonment also.  
 Clause 100—Cf section 68. The words 'on guardian' have been omitted from the heading.  
 Clause 101—Cf section 70. The heading has been slightly changed and a new sub-clause (3) added to cover the case of building owned by companies, etc.  
 Clause 102—The existing section 71 has been recast and the provisions made more definite.  
 Clause 103—This is a new clause which empowers the Courts to pass orders on the occupiers or managers of factories to take such measures for remedying the matters in respect of which offence was committed.  
 Clause 104—Cf section 72.  
 Clause 105—Cf section 73.  
 Clause 106—Cf section 74.  
 Clause 107—Cf section 75. In view of the great distances in India and the possible infrequency in the visits of Inspectors, six months period has been made to date from the time the offence came to the knowledge of the Inspector instead of the date of offence.

#### CHAPTER XI—SUPPLEMENTAL.

- Clause 108—Cf section 31.  
 Clause 109—The existing section 76 has been recast and a new sub-clause (3) added, which would enable the display of any notice or poster relating to health, safety and welfare of workers in a factory.  
 Clause 110—This is a new clause enabling the Provincial Governments to prescribe the manner of service of orders on occupiers or manager of factories.  
 Clause 111—Cf section 77.  
 Clause 112—This is a new clause defining the obligations of workers.  
 Clause 113—This is a new clause giving general powers to the Provincial Governments to frame rules.  
 Clause 114—Cf section 79.  
 Clause 115—Cf section 80.  
 Clause 116—Cf section 81.  
 Clause 117—This is a new clause which seeks to amend sub-section (3) of section 3 of the Employment of Children Act 1938, by which the age of employment of children is raised from 12 to 13.  
 Clause 118—This is a new clause.  
 The Schedule—This has been added with reference to clauses 89 and 90.

### FACTORIES (AMENDMENT) ACT, 1954 (XXV OF 1954)<sup>27</sup>

#### Statement of Objects and Reasons<sup>1</sup>

The Government of India have ratified the I.L.O. Conventions Nos. 89 and 90 prohibiting employment of women and young persons during night in factories. It is, therefore, necessary to amend sections 66, 70 and 71 of the Factories Act, 1948, to give effect to the provisions of the Conventions.

2. The provisions in the Act relating to annual leave with wages have been causing considerable difficulty particularly in determining the 12 months' "Continuous Service" for eligibility to leave with wages. It has, therefore, become necessary to simplify the provisions so as to remove any cause for difference of opinion between employers and workers.

3. This opportunity is also taken to incorporate in the Act certain other amendments which would remove some practical difficulties experienced in the working of the Act during the last four and a half years. The reasons for amendments are, wherever necessary, given in the Notes on Clauses attached to this Bill.

#### Notes on Clauses

Clause 2—The existing sub-clause k (iv) as it is worded, excludes some of the presses including Government presses from the scope of the Act as they cannot be considered as being carried on by way of trade or for purposes of gain. As it is not the intention to exclude them from the Act, it is necessary to amend the sub-clause to make the intention clear.

<sup>27</sup> Gazette of India, 1953, Part II, Section 2, pp. 869-872.

It is also necessary to amend the definition of 'manufacturing process' to cover separate premises engaged in 'composing types for printing'.

Clause 3—The existing section 4 empowers the State Governments to declare different departments of a factory as separate factories. But there is no provision to enable two or more factories of the same occupier being declared as a single factory if an application for that purpose is made by the occupier. This clause provides for that.

Clause 6—The amendment is intended to make it clear that women and young persons will be prohibited from cleaning, lubricating or adjusting any prime mover or transmission machinery while it is in motion only if such work would expose them to risk of injury.

Clause 7—This clause makes it clear that all new machines should comply with the requirements of encasement specified in sub-section (i) of section 26 and it authorises State Governments to make rules specifying any further safeguards to be provided in respect of any class or description of machines.

Clause 8—Section 29 is being revised with a view to prescribing clearly the safety requirements not only in respect of cranes and other lifting machinery but also in respect of chains, ropes and lifting tackles.

Clause 11—This clause will permit six hours' work at a stretch without any interval when the total number of hours to be worked on any day in a shift does not exceed six. This is intended mainly to enable workers to avail themselves of half holidays in full on Saturdays wherever such holidays are allowed. It will also permit newspaper printing presses to work their entire night shift of six hours at a stretch.

Clause 12—The existing sub-section (2) empowers State Governments to frame rules exempting any factory or class of factories from the provisions relating to overlapping shifts. It has been found not possible to prescribe by rules the type of factories or the conditions under which the exemption can be granted to these factories as the grant of exemption has to be considered on the circumstances of each case. A redraft of the sub-section has, therefore, become necessary.

Clause 13—The calculation of 'cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles' for the purpose of computing the ordinary rate of wages of individual workers for payment of wages for overtime is creating difficulties. Calculation to be made in each individual case depends on the size of the family, the actual rations bought as distinct from the maximum quantities the worker is entitled to buy and the actual difference. This involves considerable volume of clerical and computational work and the only practical way of avoiding this is to lay down in the section itself that the cash equivalent will be computed on the basis of the maximum ration admissible to a standard family of specific number of consumption units. This clause is intended for this purpose.

Clause 15—This amendment will liberalise the working of overtime. The amended section will also enable continuous employment of workers in case some of the subsequent shift workers do not turn up in time.

Clauses 17 and 18 and 19—The amendments of section 66, 70 and 71 are for the purpose of bringing the provisions in conformity with the I. L. O. Conventions Nos. 89 and 90 prohibiting employment of women and children during night in factories.

Clause 20—Chapter VIII relating to leave with wages is revised in order to simplify the existing provision. According to the existing law, a worker has to put in 12 months' 'continuous service' for eligibility to leave with wages. The determination of 'continuous service' has, however, been causing considerable difficulty as interruptions on account of various causes such as sickness, involuntary unemployment, etc. have to be reckoned with. A period of two hundred and forty days has now been fixed as the minimum attendance necessary during a calendar year to qualify for leave with wages. This condition of qualifying service will not be applicable to workers who are discharged or dismissed by the employer in the course of the year. Proportionate leave will be granted to workers whose service commences after the beginning of the calendar year. The annual leave with wages admissible under the Act will be exclusive of holidays occurring during or at either end of the period of leave. The limit of the leave that can be carried forward has been raised. No prior notice will be necessary when a worker requires leave to cover a period of illness. The sums payable by an employer on account of leave with wages will be recoverable as if they were wages under the Payment of Wages Act.

Clause 21—Section 93 has been recast to specify more clearly and definitely the responsibility for compliance with the various provisions of the Act between the owners of the premises and the occupier of the factory.

# **FACTORIES ACT, 1948 (LXIII OF 1948)**

## **Arrangement of Sections**

### **CHAPTER I—PRELIMINARY**

1. Short title, extent and commencement.
2. Interpretation.
3. References to time of day.
4. Power to declare different departments to be separate factories or two or more factories to be a single factory.
5. Power to exempt during public emergency.
6. Approval, licensing and registration of factories.
7. Notice by occupier.

### **CHAPTER II—THE INSPECTING STAFF**

8. Inspectors.
9. Powers of Inspectors.
10. Certifying Surgeons.

### **CHAPTER III—HEALTH**

11. Cleanliness.
12. Disposal of wastes and effluents.
13. Ventilation and temperature.
14. Dust and fume.
15. Artificial humidification.
16. Overcrowding.
17. Lighting.
18. Drinking water.
19. Latrines and urinals.
20. Spittoons.

### **CHAPTER IV—SAFETY**

21. Fencing of machinery.
22. Work on or near machinery in motion.
23. Employment of young persons on dangerous machines.
24. Striking gear and devices for cutting off power.
25. Self-acting machines.
26. Casing of new machinery.
27. Prohibition of employment of women and children near cotton-openers.
28. Hoists and lifts.
29. Lifting machines, chains, ropes and lifting tackles.
30. Revolving machinery.
31. Pressure plant.
32. Floors, stairs and means of access.
33. Pits, sumps, openings in floors, etc.
34. Excessive weights.
35. Protection of eyes.
36. Precautions against dangerous fumes.
37. Explosive or inflammable dust, gas, etc.
38. Precautions in case of fire.
39. Power to require specifications of defective parts or tests of stability.
40. Safety of buildings and machinery.
41. Power to make rules to supplement this Chapter.

### **CHAPTER V—WELFARE**

42. Washing facilities.
43. Facilities for storing and drying clothing.
44. Facilities for sitting.
45. First aid appliances.
46. Canteens.
47. Shelters, rest rooms and lunch rooms.
48. Creches.
49. Welfare Officers.
50. Power to make rules to supplement this Chapter.

## CHAPTER VI—WORKING HOURS OF ADULTS

51. Weekly hours.
52. Weekly holidays.
53. Compensatory holidays.
54. Daily hours.
55. Intervals for rest.
56. Spreadover.
57. Night shifts.
58. Prohibition of overlapping shifts.
59. Extra wages for overtime.
60. Restriction on double employment.
61. Notice of periods of work for adults.
62. Register of adult workers.
63. Hours of work to correspond with notice under section 61 and register under section 62.
64. Power to make exempting rules.
65. Power to make exempting orders.
66. Further restriction on employment of women.

## CHAPTER VII—EMPLOYMENT OF YOUNG PERSONS

67. Prohibition of employment of young children.
68. Non-adult workers to carry tokens.
69. Certificates of fitness.
70. Effect of Certificate of fitness granted to adolescent.
71. Working hours for children.
72. Notice of periods of work for children.
73. Register of child workers.
74. Hours of work to correspond with notice under section 72 and register under section 73.
75. Power to require medical examination.
76. Power to make rules.
77. Certain other provisions of law not barred

## CHAPTER VIII—ANNUAL LEAVE WITH WAGES

78. Application of Chapter.
79. Annual leave with wages.
80. Wages during leave period
81. Payment in advance in certain cases.
82. Mode of recovery of unpaid wages.
83. Power to make rules
84. Power to exempt factories.

## CHAPTER IX—SPECIAL PROVISIONS

85. Power to apply the Act to certain premises.
86. Power to exempt public institutions.
87. Dangerous operations.
88. Notice of certain accidents.
89. Notice of certain diseases
90. Power to direct enquiry into cases of accident or disease.
91. Power to take samples.

## CHAPTER X—PENALTIES AND PROCEDURE

92. General penalty for offences.
93. Liability of owner of premises in certain circumstances.
94. Enhanced penalty after previous conviction.
95. Penalty for obstructing Inspector.
96. Penalty for wrongfully disclosing results of analysis under section 91.
97. Offences by workers.
98. Penalty for using false certificate of fitness.
99. Penalty for permitting double employment of child.
100. Determination of occupier in certain cases.
101. Exemption of occupier or manager from liability in certain cases.
102. Power of Court to make orders.
103. Presumption as to employment.

- 104. Onus as to age.
- 105. Cognizance of offences.
- 106. Limitation of prosecutions.

# CHAPTER XI—SUPPLEMENTAL

- 107. Appeals.
- 108. Display of notices.
- 109. Service of notices.
- 110. Returns.
- 111. Obligations of workers.
- 112. General power to make rules.
- 113. Powers of Centre to give directions.
- 114. No charge for facilities and conveniences.
- 115. Publication of rules.
- 116. Application of Act to Government factories.
- 117. Protection to persons acting under this Act.
- 118. Restriction on disclosure of information.
- 119. [*Repealed.*]
- 120. Repeal and savings.

## THE SCHEDULE

# FACTORIES ACT, 1948 (LXIII OF 1948)<sup>1</sup>

*An Act to consolidate and amend the law regulating labour in factories.*

[ 23rd September, 1948.]

Whereas it is expedient to consolidate and amend the law regulating labour in factories;

It is hereby enacted as follows:—

## CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Factories Act, 1948.

<sup>2</sup> [(2) It extends to the whole of India <sup>3</sup> [except the State of Jammu and Kashmir].

(3) It shall come into force on the 1st day of April, 1949.

2. **Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “adult” means a person who has completed his eighteenth year of age;
- (b) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year;

<sup>4</sup> [(bb) “calendar year” means the period of twelve months beginning with the first day of January in any year; ]

- (c) “child” means a person who has not completed his fifteenth year of age;
- (d) “young person” means a person who is either a child or adolescent;
- (e) “day” means a period of twenty-four hours beginning at midnight;
- (f) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1947, Pt. V, pp. 580-581; for Report of Select Committee, see *ibid*, 1948, Pt. V, pp. 551-590, see also pp. 23-28.

<sup>2</sup> Subs. by the A. O. 1950, for the former section.

<sup>3</sup> Subs. by Act 3 of 1951 (w.e.f. 1-4-51) for “except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin”.

<sup>4</sup> Ins. by Act 25 of 1954, s. 2.

- (g) "power" means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;
- (h) "prime mover" means any engine, motor or other appliance which generates or otherwise provides power;
- (i) "transmission machinery" means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;
- (j) "machinery" includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;
- (k) "manufacturing process" means any process for—
- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or
  - (ii) pumping oil, water or sewage, or
  - (iii) generating, transforming or transmitting power; or
  - <sup>a</sup>[(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding;]
  - (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;
- (l) "worker" means a person employed, directly or through any agency, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process;
- (m) "factory" means any premises including the precincts thereof—
- (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or
  - (ii) Whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—
- but does not include a mine subject to the operation of <sup>a</sup>[the Mines Act, 1952 (XXXV of 1952)], or a railway running shed;
- (n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- (o) "managing agent" has the meaning assigned to it in the Indian Companies Act, 1913 (VII of 1913);
- (p) "prescribed" means prescribed by rules made by the <sup>7</sup>[State] Government under this Act;

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<sup>a</sup> Subs. by Act 25 of 1954, s. 2 for former sub-clause.

<sup>6</sup> Subs. *ibid* for "the Indian Mines Act, 1923 (IV of 1923)".

<sup>7</sup> Subs. by the A. O. 1950, for "Provincial."

<sup>8</sup> Clause (q) was repealed, *ibid*.

“(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a “ relay ” and each of such periods is called a “ shift.”

**3. References to time of day.**—In this Act references to time of day are references to Indian Standard Time, being five and a half hour, each ahead of Greenwich Mean Time:

Provided that for any area in which Indian Standard time is not ordinarily observed the “[State] Government may make rules—

- (a) specifying the area,
- (b) defining the local mean time ordinarily observed therein, and
- (c) permitting such time to be observed in all or any of the factories situated in the area.

<sup>10</sup>[**4. Power to declare different departments to be separate factories or two or more factories to be a single factory.**—The State Government may, on an application made in this behalf by an occupier, direct, by an order in writing, that for all or any of the purposes of this Act different departments or branches of a factory of the occupier specified in the application shall be treated as separate factories or that two or more factories of the occupier specified in the application shall be treated as a single factory.]

**5. Power to exempt during public emergency.**—In any case of public emergency the “[ State ] Government may, by notification in the official Gazette, exempt any factory or class or description of factories from all or any of the provision of this Act <sup>11</sup>[except section 67] for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding three months at a time.

**6. Approval, licencing and registration of factories.** (1) The “[State] Government may make rules—

- (a) requiring the previous permission in writing of the “[ State ] Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construcion or extension of any factory or class or description of factories;
- (b) requiring for the purpose of considering applications for such permission the submission of plans and specifications;
- (c) prescribing the nature of such plans and specifications and by whom they shall be certified;
- (d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences;
- (e) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.

(2) If on an application for permission referred to in clause (a) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the “[ State ] Government or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a “[ State ] Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration

<sup>9</sup> Subs. by the A. O. 1950, for “ Provincial.”

<sup>10</sup> Subs. by Act 25 of 1954, s. 3.

<sup>11</sup> Ins. by the A. O. 1950.



and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the <sup>12</sup>[ State ] Government and to the <sup>12</sup>[ State ] Government in any other case.

*Explanation.*—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery.

**7. Notice by occupier.**—(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

- (a) the name and situation of the factory;
- (b) the name and address of the occupier;
- <sup>13</sup>[ (bb) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93; ]
- (c) the address to which communications relating to the factory may be sent;
- (d) the nature of the manufacturing process—
  - (i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act, and
  - (ii) to be carried on in the factory during the next twelve months in the case of all factories;
- (e) the nature and quantity of power to be used;
- (f) the name of the manager of the factory for the purposes of this Act;
- (g) the number of workers likely to be employed in the factory;
- (h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;
- (i) such other particulars as may be prescribed.

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days, from the date of the commencement of this Act.

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) <sup>14</sup>[at least thirty days] before the date of the commencement of work.

(4) Whenever a new manager is appointed, the occupier shall send to the <sup>15</sup>[ Inspector a written notice and to the Chief Inspector a copy thereof ] within seven days from the date on which such person takes over charge.

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

## CHAPTER II.—THE INSPECTING STAFF

**8. Inspectors.**—(1) The <sup>12</sup>[ State ] Government may, by notification in the official Gazette, appoint such persons as possess the prescribed qualification to be

<sup>12</sup> Subs. by the A. O. 1950, for "Provincial."

<sup>13</sup> Ins. by Act 25 of 1954, s. 4.

<sup>14</sup> Subs. by Act 40 of 1949, s. 3 and Sch. II for "within thirty days."

<sup>15</sup> Subs. by Act 25 of 1954, s. 4 for "Chief Inspector a written notice."

Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The <sup>16</sup>[ State ] Government may, by notification in the official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the <sup>16</sup>[ State ].

(3) No person shall be appointed under sub-section (1), sub-section (2) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The <sup>16</sup>[ State ] Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one the <sup>16</sup>[ State ] Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the <sup>16</sup>[ State ] Government may specify in this behalf.

**9. Powers of Inspectors.**—Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

- (a) enter, with such assistants, being persons in the service of the Government, or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;
- (b) make examination of the premises, plant and machinery, require the production of any prescribed register and any other document relating to the factory, and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;
- (c) exercise such other powers as may be prescribed for carrying out the purposes of this Act:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

**10. Certifying Surgeons.**—(1) The <sup>16</sup>[ State ] Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the <sup>16</sup>[ State ] Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the <sup>16</sup>[ State ] Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on

<sup>16</sup> Subs. by the A. O. 1950, for " Provincial."

therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

- (a) the examination and certification of young persons under this Act;
- (b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;
- (c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—
  - (i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;
  - (ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process;
  - (iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

*Explanation.*—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

### CHAPTER III.—HEALTH

**11. Cleanliness.**—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy, or other nuisance, and in particular—

- (a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;
- (b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;
- (c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
- (d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—
  - (i) where they are painted or varnished, be repainted or revarnished at least once in every period of five years;
  - (ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed;
  - (iii) in any other case, be kept whitewashed, or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months;
- (e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations, carried on in a factory, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the <sup>17</sup>[ State ] Government may by order exempt such factory or class

<sup>17</sup> Subs. by the A. O. 1950, for “Provincial.”

or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

**12. Disposal of wastes and effluents.**—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The <sup>18</sup>[ State ] Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

**13. Ventilation and temperature.**—(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

(a) adequate ventilation by the circulation of fresh air, and

(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health;—

and in particular,—

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The <sup>18</sup>[ State ] Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the <sup>18</sup>[ State ] Government that in any factory or class or description of factories excessively high temperatures can be reduced by such methods as whitewashing, spraying or insulating and screening outside walls or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of these or other methods as shall be adopted in the factory.

**14. Dust and fume.**—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

**15. Artificial humidification.**—(1) In respect of all factories in which the humidity of the air is artificially increased, the <sup>18</sup>[ State ] Government may make rules,—

(a) prescribing standards of humidification;

<sup>18</sup> Subs. by the A. O. 1950, for "Provincial."

- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source or drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before specified date.

**16. Overcrowding.**—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act at least three hundred and fifty cubic feet and of a factory built after the commencement of this Act at least five hundred cubic feet of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt, subject to such conditions, if any, as he may think fit to impose any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

**17. Lighting.**—(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

- (a) glare, either directly from a source of light or by reflection from a smooth or polished surface;
- (b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

(4) The <sup>19</sup>[ State ] Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

**18. Drinking water.**—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

<sup>19</sup> Subs. by the A. O. 1950, for " Provincial."

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within twenty feet of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the <sup>20</sup>[ State ] Government may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

**19. Latrines and urinals.—**(1) In every factory—

- (a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;
- (b) separate enclosed accommodation shall be provided for male and female workers;
- (c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;
- (d) all such accommodation shall be maintained in a clean and sanitary condition at all times;
- (e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

- (a) all latrine and urinal accommodation shall be of prescribed sanitary types;
- (b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;
- (c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The <sup>20</sup>[ State ] Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

**20. Spittoons.—**(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The <sup>20</sup>[ State ] Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.

<sup>20</sup> Subs. by the A. O. 1950, for "Provincial."

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

#### CHAPTER IV—SAFETY

**21. Fencing of machinery.**—(1) In every factory the following namely,—

- (i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not,
- (ii) the headrace and tailrace of every water-wheel and water turbine;
- (iii) any part of a stock-bar which projects beyond the head stock of a lathe; and
- (iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely,—
  - (a) every part of an electric generator, a motor or rotary convertor;
  - (b) every part of transmission machinery; and
  - (c) every dangerous part of any other machinery,

shall be securely fenced by safeguards of substantial construction which shall be kept in position while the parts of machinery they are fencing are in motion or in use:

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of <sup>21</sup>[sub-section (1) of section 22].

(2) The <sup>22</sup>[State] Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

**22. Work on or near machinery in motion.**—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 21 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged,—

- (a) such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt;
- (b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would

<sup>21</sup> Subs. by Act 25 of 1954, s. 5 for "section 22."

<sup>22</sup> Subs. by the A. O. 1950, for "Provincial."

otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

<sup>21</sup>[ (2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.]

(3) The <sup>22</sup>[ State ] Government may, by notification in the official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

**23. Employment of young persons on dangerous machines.**—(1) No young person shall work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the <sup>22</sup>[ State ] Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

**24. Striking gear and devices for cutting off power.**—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room:

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to work-rooms in which electricity is used as power.

**25. Self-acting machines.**—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

**26. Casing of new machinery.**—(1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;

<sup>21</sup> Subs. by Act 25 of 1954, s. 6.

<sup>22</sup> Subs. by the A. O. 1950 for "Provincial."



- (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of <sup>23</sup>[ sub-section (1) or any rules made under sub-section (3) ] shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

<sup>24</sup>[(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.]

**27. Prohibition of employment of women and children near cotton-openers.**—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the room or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

**28. Hoists and lifts.**—(1) In every factory—

(a) every hoist and lift shall be—

- (i) of good mechanical construction, sound material and adequate strength;
- (ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:—

- (a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

<sup>23</sup> Subs. by Act 25 of 1954, s. 7 for "sub-section (1)".

<sup>24</sup> Subs., *ibid.*

- (b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;
- (c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The <sup>25</sup>[ State ] Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

<sup>26</sup>[29. **Lifting machines, chains, ropes and lifting tackles.**—(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:—

- (a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be—
  - (i) of good construction, sound material and adequate strength and free from defects;
  - (ii) properly maintained; and
  - (iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing, and a register shall be kept containing the prescribed particulars of every such examination;
- (b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register; and where this is not practicable, a table showing the safe working loads of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;
- (c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories—

- (a) prescribing further requirements to be complied with in addition to those set out in this section;
- (b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined.

<sup>25</sup> Subs. by the A. O. 1950, for "Provincial."

<sup>26</sup> Subs. by Act 25 of 1954, s. 8.

**Explanation.**—In this section,—

- (a) "lifting machine" means a crane, crab winch, teagle, pulley block, gin wheel, transporter or runway;
- (b) "lifting tackle" means chain slings, rope slings, rings, hooks, shackles and swivels.]

**30. Revolving machinery.**—(1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley disc or similar appliance driven by power is not exceeded.

**31. Pressure plant.**—(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The <sup>27</sup>[ State ] Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

**32. Floors, stairs and means of access.**—In every factory—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

**33. Pits, sumps, openings in floors, etc.**—(1) In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The <sup>27</sup>[ State ] Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

**34. Excessive weights.**—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The <sup>27</sup>[ State ] Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

**35. Protection of eyes.**—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

<sup>27</sup> Subs. by the A. O. 1950, for "Provincial."

- (b) risk to the eyes by reason of exposure to excessive light,—the <sup>22</sup>[ State ] Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

**36. Precautions against dangerous fumes.**—(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

- (a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or
- (b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory any boiler furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The <sup>23</sup>[ State ] Government may make rules prescribing the maximum dimensions of the manholes referred to in sub-section (1) and may by order in writing exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

**37. Explosive or inflammable dust, gas, etc.**—(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the

<sup>22</sup> Subs. by the A. O. 1950, for " Provincial."

provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:—

- (a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means;
- (b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;
- (c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced:

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The <sup>29</sup>[ State ] Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

**38. Precautions in case of fire.**—(1) Every factory shall be provided with such means of escape in case of fires as may be prescribed, and if it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing specifying the measures which, in his opinion should be adopted to bring the factory into conformity with the provisions of this section and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every factory the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards.

(3) In every factory, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every factory effective and clearly audible means of giving warning in case of fire to every person employed in the factory.

(5) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of a factory.

(6) Effective measures shall be taken to ensure that in every factory—

- (a) wherein more than twenty workers are ordinarily employed in any place above the ground floor, or

<sup>29</sup> Subs. by the A. O. 1950, for "Provincial."

(b) wherein explosives or highly inflammable materials are used or stored, all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) The <sup>30</sup>[State] Government may make rules prescribing, in respect of any factory or class or description of factories the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

**39. Power to require specifications of defective parts or tests of stability.**—If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

**40. Safety of buildings and machinery.**—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

**41. Power to make rules to supplement this Chapter.**—The <sup>30</sup>[State] Government may make rules requiring the provision in any factory or in any class or description of factories of such further devices for securing the safety of persons employed therein as it may deem necessary.

#### CHAPTER V.—WELFARE.

**42. Washing facilities.**—(1) In every factory—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The <sup>30</sup>[State] Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

**43. Facilities for storing and drying clothing.** The <sup>30</sup>[State] Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

**44. Facilities for sitting.**—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a

<sup>30</sup> Subs. by the A. O. 1950, for "Provincial."

standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The <sup>31</sup>[State] Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

**45. First-aid appliances.**—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed <sup>32</sup>[at any one time in the factory].

<sup>33</sup>[ (2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard.

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who is trained in first aid treatment and who shall always be readily available during the working hours of the factory.]

<sup>34</sup>[ (4)] In every factory wherein more than five hundred workers are employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

**46. Canteens.**—(1) The <sup>31</sup>[State] Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which such canteen shall be provided;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
- (c) the foodstuffs to be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;
- (e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

**47. Shelters, rest rooms and lunch rooms.**—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exists no worker shall eat any food in the work room.

<sup>31</sup> Subs. by the A. O. 1950, for "Provincial."

<sup>32</sup> Ins. by Act 25 of 1954, s. 9.

<sup>33</sup> Subs., *ibid.* for original sub-section (2).

<sup>34</sup> Renumbered for "(3)", *ibid.*

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The <sup>ss</sup>[State] Government may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(b) by notification in the official Gazette, exempt any factory or class or description of factories from the requirements of this section.

**48. Creches.**—(1) In every factory wherein more than fifty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The <sup>ss</sup>[State] Government may make rules—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided, under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any factory of free milk or refreshment or both for such children;

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

**49. Welfare Officers.**—(1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of Welfare Officers as may be prescribed.

(2) The <sup>ss</sup>[State] Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

**50. Power to make rules to supplement this Chapter.**—The <sup>ss</sup>[State] Government may make rules—

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

## CHAPTER VI.—WORKING HOURS OF ADULTS.

**51. Weekly hours.**—No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

**52. Weekly holidays.**—(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless—

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

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<sup>ss</sup> Subs. by the A. O. 1950, for "Provincial."



(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,—

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

**53. Compensatory holidays.**—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The <sup>36</sup>[State] Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

**54. Daily hours.**—Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

<sup>37</sup>[Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.]

**55. Intervals for rest.**—<sup>38</sup>[(1)] <sup>39</sup>[The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

<sup>40</sup>[(2)] The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.]

**56. Spreadover.**—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55 they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spreadover to twelve hours.

<sup>36</sup> Subs. by the A. O. 1950, for "Provincial."

<sup>37</sup> Added by Act 25 of 1954, s. 10.

<sup>38</sup> Renumbered as paragraph (1) by s. 11, *ibid.*

<sup>39</sup> Subs. by Act 40 of 1949, s. 3 and Sch. II for "The period."

<sup>40</sup> Added by Act 25 of 1954, s. 11.

**57. Night shifts.**—Where a worker in a factory works on a shift which extends beyond midnight,—

- (a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;
- (b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

**58. Prohibition of overlapping shifts.**—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

<sup>41</sup>[(2) The State Government or subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-section (1).]

**59. Extra wages for overtime.**—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) Where any workers in a factory are paid on a piece rate basis, the <sup>42</sup>[State] Government, in consultation with the employer concerned, and the representatives of the workers shall, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) For the purposes of this section, “ordinary rate of wages” means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus.

<sup>43</sup>[(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

*Explanation 1.*—“Standard family” means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2.*—“Adult consumption unit” means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing—

- (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and
- (b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.]

<sup>41</sup> Subs. by Act 25 of 1954, s. 12.

<sup>42</sup> Subs. by the A. O. 1950 for “Provincial.”

<sup>43</sup> Subs. by Act 25 of 1954, s. 13.

**60. Restriction on double employment.**—No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

**61. Notice of periods of work for adults.**—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, <sup>44</sup>[55, 56 and 58.]

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The <sup>45</sup>[State] Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

**62. Register of adult workers.**—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing—

- (a) the name of each adult worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by

<sup>44</sup> Subs. by Act 25 of 1954, s. 14 for " 55 and 56."

<sup>45</sup> Subs. by A. O. 1950 for " Provincial."

order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The <sup>46</sup>[State] Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

**63. Hours of work to correspond with notice under section 61 and register under section 62.**—No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

**64. Power to make exempting rules.**—(1) The <sup>46</sup>[State] Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined.

(2) The <sup>46</sup>[State] Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

- (a) of workers engaged on urgent repairs, from the provisions of sections 51, 54, 55 and 56;
- (b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;
- (c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56;
- (d) of workers engaged in any work which for technical reasons must be carried on continuously <sup>47</sup>\* \* \* from the provisions of sections 51, 52, 54, 55 and 56;
- (e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 52;
- (f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of section 52;
- (g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;
- (h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 52;
- <sup>48</sup>(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of sections 51, 54 and 56.

**Explanation.**—In this clause the expression “news-papers” has the meaning assigned to it in the Press and Registration of Books Act, 1867 (XXV of 1867);

- (j) of workers engaged in the loading or unloading of railway wagons, from the provisions of sections 51, 52, 54, 55 and 56.]

<sup>46</sup> Subs. by the A. O. 1950, for “Provincial.”

<sup>47</sup> The word “throughout the day” omitted by Act 25 of 1954, s. 15.

<sup>48</sup> Added, *ibid*, s. 15.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the <sup>49</sup>[State] Government may deem to be expedient, subject to such conditions as it may prescribe.

<sup>50</sup>[(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime:—

- (i) the total number of hours of work in any day shall not exceed ten;
- (ii) the spreadover, inclusive of intervals for rest, shall not exceed twelve hours in any one day:

Provided that the State Government may, in respect of any or all of the categories of workers referred to in clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by clause (i) and clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

- (iii) the total number of hours of overtime shall not exceed fifty for any one quarter.

*Explanation.*—"Quarter" means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.]

(5) Rules made under this section shall remain in force for not more than three years.

**65. Power to make exempting orders.**—(1) Where the <sup>49</sup>[State] Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand it may, by written order, relax or modify the provisions of sections 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The <sup>49</sup>[State] Government or, subject to the control of the <sup>49</sup>[State] Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption given under sub-section (2) in respect of <sup>51</sup>[working hours] shall be subject to the maximum limits prescribed under sub-section (4) of section 64.

(4) No factory shall be exempted under sub-section (2) for a period or periods exceeding in the aggregate three months in any year.

**66. Further restrictions on employment of women.**—(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

- (a) no exemption from the provisions of section 54 may be granted in respect of any woman;
- (b) no woman shall be employed, in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that the <sup>49</sup>[State] Government may, by notification in the official Gazette, in respect of any class or description of factories, vary the limits laid

<sup>49</sup> Subs. by the A. O. 1950 for "Provincial."

<sup>50</sup> Subs. by Act 25 of 1954, s. 15 for the original sub-section (4).

<sup>51</sup> Subs. *ibid*, s. 16 for "weekly hours of work."

down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.;

<sup>52</sup>[(c) there shall be no change of shifts except after a weekly holiday or any other holiday.]

(2) The <sup>53</sup>[State] Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

## CHAPTER VII.—EMPLOYMENT OF YOUNG PERSONS.

**67. Prohibition of employment of young children.**—No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

**68. Non-adult workers to carry tokens.**—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

- (a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and
- (b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

**69. Certificates of fitness.**—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

- (a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;
- (b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year, and is fit for a full day's work in a factory:

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

- (a) shall be valid only for a period of twelve months from the date thereof;
- (b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

<sup>52</sup> Ins. by Act 25 of 1954, s. 17.

<sup>53</sup> Subs. by the A. O. 1950, for "Provincial."

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

(7) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

**70. Effect of certificate of fitness granted to adolescent.**—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 69, and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapters VI and VIII.

<sup>54</sup>[Provided that no such adolescent who has not attained the age of seventeen years shall be employed or permitted to work in any factory during night.

*Explanation.*—For the purpose of this sub-section “night” shall mean a period of at least twelve consecutive hours which shall include an interval of at least seven consecutive hours falling between 10 P.M. and 7 A.M.].

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act.

**71. Working hours for children.**—(1) No child shall be employed or permitted to work, in any factory.

(a) for more than four and a half hours in any day;

<sup>55</sup>[(b) during the night.

*Explanation.*—For the purpose of this sub-section “night” shall mean a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 A.M.].

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

**72. Notice of periods of work for children.**—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

<sup>54</sup> Added by Act 25 of 1954, s. 18.

<sup>55</sup> Subs. *ibid.*, s. 19.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

**73. Register of child workers.**—(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

- (a) the name of each child worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted, and
- (e) the number of his certificate of fitness granted under section 69.

(2) The <sup>56</sup>[State] Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

**74. Hours of work to correspond with notice under section 72 and register under section 73.**—No child shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory.

**75. Power to require medical examination.**—Where an Inspector is of opinion—

- (a) that any person working in a factory without a certificate of fitness is a young person, or
- (b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,—

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

**76. Power to make rules.**—The <sup>56</sup>[State] Government may make rules—

- (a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates, and renewals thereof and such duplicates;
- (b) prescribing the physical standards to be attained by children and adolescents working in factories;
- (c) regulating the procedure of certifying surgeons under this Chapter;
- (d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

**77. Certain other provisions of law not barred.**—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVI of 1938).

<sup>56</sup> Subs. by the A. O. 1950, for "Provincial."



## 57 [CHAPTER VIII

## ANNUAL LEAVE WITH WAGES

**78. Application of Chapter.**—(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that when such award, agreement or contract of service provides for a longer annual leave with wages than provided in this Chapter, the worker shall be entitled only such longer annual leave.

(2) The provisions of this Chapter shall not apply to workers in any workshop of any railway administered by the Government, who are governed by leave rules approved by the Central Government.

**79. Annual leave with wages.**—(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of—

- (i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;
- (ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

*Explanation 1.*—For the purpose of this sub-section—

- (a) any days of lay off, by agreement or contract or as permissible under the standing orders;
- (b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and
- (c) the leave earned in the year prior to that in which the leave is enjoyed; shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

*Explanation 2.*—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service during the course of the year he shall be entitled to leave with wages at the rates laid down in sub-section (1) even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earn leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-

sections (8) and (9) shall be entitled to carry forward the unavailed leave without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowed to him during the calendar year:

Provided that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6); and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of leave allowable under this section may be regulated.

(9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in the factory and shall be in force for a period of twelve months from the date on which it comes into force, and may thereafter, be renewed with or without modification for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

(12) The unavailed leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

**80. Wages during leave period.**—(1) For the leave allowed to him under section 79, a worker shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month imme-

diately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of food-grains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles shall be computed as often as may be prescribed, on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

*Explanation 1.*—"Standard family" means a family consisting of a worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2.*—"Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

(3) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

**81. Payment in advance in certain cases.**—A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

**82. Mode of recovery of unpaid wages.**—Any sum required to be paid by an employer, under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (IV of 1936).

**83. Power to make rules.**—The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

**84. Power to exempt factories.**—Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision it may, by written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.]

## CHAPTER IX

### SPECIAL PROVISIONS

**85. Power to apply the Act to certain premises.**—(1) The <sup>58</sup>[State] Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that—

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

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<sup>58</sup> Subs. by the A. O. 1950 for "Provincial."

- (ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

*Explanation.*—For the purposes of this section, “owner” shall include a lessee or mortgagee with possession of the premises.

**86. Power to exempt public institutions.**—The <sup>59</sup>[State] Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training or reformation, from all or any of the provisions of this Act:

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the <sup>59</sup>[State] Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the <sup>59</sup>[State] Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

**87. Dangerous operations.**—Where the <sup>59</sup>[State] Government is of opinion that any operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the operation is carried on—

- (a) specifying the operation and declaring it to be dangerous;
- (b) prohibiting or restricting the employment of women, adolescents or children in the operation;
- (c) providing for the periodical medical examination of persons employed, or seeking to be employed, in the operation, and prohibiting the employment of persons not certified as fit for such employment;
- (d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on;
- (e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation.

**88. Notice of certain accident.**—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

**89. Notice of certain diseases.**—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in the Schedule, the medical practitioner

<sup>59</sup> Subs. by the A. O. 1950, for “Provincial.”

shall without delay send a report in writing to the office of the Chief Inspector stating—

- (a) the name and full postal address of the patient,
- (b) the disease from which he believes the patient to be suffering, and
- (c) the name and address of the factory in which the patient is, or was last, employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a certifying surgeon or otherwise, that the person is suffering from a disease specified in the Schedule, he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land-revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

**90. Power to direct enquiry into cases of accident or disease.**—(1) The “[State] Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an enquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1860).

(3) The person holding an inquiry under this section shall make a report to the “[State] Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The “[State] Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The “[State] Government may make rules for regulating the procedure at inquiries under this section.

**91. Power to take sample.**—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being—

- (a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or
- (b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such persons to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliance for dividing, sealing, and marking the sample taken under this section.

(4) The Inspector shall—

- (a) forthwith give one portion of the sample to the person informed under sub-section (1);
- (b) forthwith send the second portion to a Government Analyst for analysis and report thereon;
- (c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

#### CHAPTER X—PENALTIES AND PROCEDURE

**92. General penalty for offences.**—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

<sup>61</sup>[**93. Liability of owner of premises in certain circumstances.**—(1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

- (i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;
- (ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;
- (iii) safe means of access to the floors or flats and maintenance and cleanliness of stair cases and common passages;
- (iv) precautions in case of fire;
- (v) maintenance of hoists and lifts; and
- (vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines,

<sup>61</sup> Subs. by Act 25 of 1954, s. 21.

urinals and washing facilities are leased to different occupiers for use as separate factories:

Provided that the owner shall be responsible also for complying with the requirements relating to the provisions and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 14 and 15;

(ii) Chapter IV, except sections 22, 23, 27, 34, 35 and 36:

Provided that in respect of the provisions of sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.]

**94. Enhanced penalty after previous conviction.**—If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

**95. Penalty for obstructing Inspector.**—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any workers in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

**96. Penalty for wrongfully disclosing results of analysis under section 91.**—Whoever except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

**97. Offences by workers.**—(1) Subject to the provisions of section III, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to twenty rupees.

(2) Where a worker is convicted of an offence punishable under sub-section (1) the occupier or manager of the factory shall not be deemed to be guilty of an

offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

**98. Penalty for using false certificate of fitness.**—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

**99. Penalty for permitting double employment of child.**—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

**100. Determination of occupier in certain cases.**—(1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members, residing within <sup>62</sup> \* \* \* India to be the occupier of the factory for the purposes of this Chapter, and such individual shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a Company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the Company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case within <sup>62</sup> \* \* \* India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

(3) Where the owner of any premises or building referred to in section 93 is not an individual, the provisions of this section shall apply to such owner as they apply to occupiers of factories who are not individuals.

**101. Exemption of occupier or manager from liability in certain cases.**—Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,—

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier

<sup>62</sup> The words "the Provinces of" were rep. by the A. O. 1950.



or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

**102. Power of Court to make orders.**—(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

**103. Presumption as to employment.**—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

**104. Onus as to age.**—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

**105. Cognizance of offences.**—(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

**106. Limitation of prosecution.**—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three

months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

#### CHAPTER XI.—SUPPLEMENTAL.

**107. Appeals.**—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the <sup>63</sup>[State] Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the <sup>63</sup>[State] Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed:

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the <sup>63</sup>[State] Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

**108. Display of notices.**—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

**109. Service of notices.**—The <sup>63</sup>[State] Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

**110. Returns.**—The <sup>63</sup>[State] Government may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

**111. Obligations of workers.**—(1) No worker in a factory—

(a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

<sup>63</sup> Subs. by the A. O. 1950, for "Provincial."

- (b) shall wilfully and without reasonable cause do anything likely to endanger himself or others; and
- (c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

**112. General power to make rules.**—The “[State] Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

**113. Powers of Centre to give directions.**—The Central Government may give directions to a “[State] Government as to the carrying into execution of the provisions of this Act.

**114. No charge for facilities and conveniences.**—Subject to the provisions of section 46 no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipment or appliances to be supplied by the occupier under the provisions of this Act.

**115. Publication of rules.**—All rules made under this Act shall be published in the Official Gazette, and shall be subject to the condition of previous publication; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than three months from the date on which the draft of the proposed rules was published.

**116. Application of Act to Government factories.**—Unless otherwise provided this Act shall apply to factories belonging to the Central or any “[State] Government.

**117. Protection to persons acting under this Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**118. Restriction on disclosure of information.**—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes, of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**119. Amendment of section 3, Act XXVI of 1938.**—[*Rep. by the Repealing and Amending Act, 1950 (XXXV of 1950), S. 2 and Sch. I.*]

**120. Repeal and Savings.**—The enactments set out in the Table appended to this section are hereby repealed:

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.

“ Subs. by the A. O. 1950, for “ Provincial.”

*Table—Enactments repealed. [Repealed]*

**The Schedule.—(See Sections 89 and 90.)**

**List of Notifiable Diseases.**

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetra-ethyl poisoning.
3. Phosphorous poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or anido derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydro-carbons of the aliphatic series.
14. Pathological manifestations due to—
  - (a) radium or other radio-active substances.
  - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.

**A GUIDE TO THE SAFETY PROVISIONS OF  
THE FACTORIES ACT, 1948**

**Arrangement of Paragraphs**

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**Safety of Buildings, Machinery, etc.**

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**Powers of Provincial Governments**

## **1 A GUIDE TO THE SAFETY PROVISIONS OF THE FACTORIES ACT, 1948**

### **Introduction**

The Factories Act, 1948, contains many new safety provisions of a high standard based on modern industrial practice, and the purpose of this pamphlet is to explain briefly and in simple non-legal language how some of these provisions are designed to meet certain types of danger, and to help employers and others concerned to find the changes or additions in the law which will affect them.

The Act does not come into force until 1st April 1949, but some considerable alteration of plant and equipment may be necessary in a number of cases, and employers would be well advised to read the relevant sections of the Act now, if they have not already done so, and to obtain any necessary expert advice, with a view to seeing that their factories are in conformity with the new law by this date. This pamphlet is intended only as a guide or pointer, and for detailed information as to the precise requirements, the reader is referred to the Act itself.

### **Responsibility of Occupier**

Before considering the various safety provisions of the new Act, there is a very important point to note regarding the responsibility which the law now requires the factory occupier to take for the safety of his work-people.

In the past an Inspector visited a factory and notified to the occupier that certain parts of machinery or plant were dangerous and required him to provide suitable safeguards. This procedure tend to encourage some occupiers to leave their machines unfenced until the Inspector called and gave specific instructions in the matter. It is not, however, possible for the Inspectorate to arrange frequent visits to every individual factory, and the result has been that very serious accidents occurred on machinery which was unfenced, simply because the occupier did not consider it to be dangerous or the Inspector had not visited and directed him.

The new law changes the procedure completely and, from now on the responsibility for safety matters is placed squarely on the shoulders of the occupier. In other words, the occupier must comply with the safety provisions of the Act

<sup>1</sup> This Guide was issued by the Chief Adviser, Factories, Ministry of Labour, Government of India, after the Factories Act was passed in 1948.

without waiting for an Inspector to visit and give instructions for what ought to be done.

Many occupiers emphasise the difficulty of securing the proper maintenance of guards throughout a large factory, especially when work-people are opposed or indifferent to their use, and have expressed the opinion that, when guards have been provided, and the work-people told to use them, the work-people themselves should be held responsible if the guards are not used. The difficulties experienced by employers in this matter are recognised and credit is due to many of them for the useful work they have done in overcoming active opposition or passive negligence on the part of the work-people. But, although the moral blame for neglect to maintain or use a guard may sometimes rest with the worker, the necessity of maintaining the legal responsibility, which is placed by the Act on the occupier, must be emphasised. The supervision of guards is a matter requiring daily attention, and however large the staff of Factory Inspectors, it is clearly impracticable for them to exercise this detailed supervision. Only persons who are in the factory from day to day can see that guards are properly maintained, and unless the employer under this duty, there are no means of ensuring that this important provision will be observed. Accordingly, the Act places the responsibility upon the occupier and expects him to secure compliance with the legal requirement by discipline among his employees. It should be noted, however, that the affixing of notices or the giving of perfunctory instructions does not fulfil the employer's obligation: he is required to use as much diligence to see that guards are maintained as he naturally exercises to see that his work-people turn out satisfactory work. And, if he shows himself determined to secure the use and maintenance of guards by a persevering use of his disciplinary powers, he can effect this object.

Finally, the occupier is reminded that the Inspectors are always available for consultation and in any cases of doubt or difficulty he should not hesitate to call for their assistance. They will continue, as heretofore, to pay periodical visits to every factory, and at these visits they will advise as to the suitability of the guards provided, indicate dangerous parts that may have been overlooked, discuss methods of guarding particular machines and, in general, assist the occupier to secure compliance with the various requirements of the Act.

But, and this is a very important point for the occupier to note, the requirements of the Act are absolute and are in no way dependent upon previous notice or warning from the Inspector.

### **Fencing of Machinery**

In regard to the fencing of machinery the general principle is that every part of the transmission machinery and every *dangerous* part of other machinery must be securely fenced, unless it is in such a position, or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced. All parts of electric generators, motors, rotary converters, and flywheels directly connected to them, are also subject to this requirement; while all moving parts of other prime-movers, and fly-wheels directly connected to them, must be securely fenced irrespective of their position, and so must the head and tail race of a water wheel or water turbine. Prime-mover is defined as any engine, motor or other appliance which generates or otherwise provides power; and transmission machinery means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime-mover is transmitted to or received by any machine or appliance.

Large gear wheels, pulleys, belts, etc. are obviously dangerous when in motion, but *smooth polished shafting* can be just as dangerous, and many accidents happen because the danger is not appreciated. If loose clothing comes in contact with

a shaft it will almost certainly wrap round the shaft and the wearer will be caught and whirled off his feet and either killed or seriously injured. The law requires, therefore, that transmission machinery and dangerous parts of other machinery shall be securely fenced so as to protect not only the ordinary worker employed in the factory every day, but also those engaged on temporary jobs such as painting or whitewashing or carrying out repairs to overhead electric lights and so on.

It will be noted that both transmission machinery, and dangerous parts of other machinery, must be securely fenced, and the question immediately arises: "What is the meaning of 'dangerous' in this context?" The new Act contains no definition and the question is one of fact. In an English High Court it was held that it meant "machinery from which, in the ordinary course of working it, danger may reasonably be anticipated, even if such danger would arise from negligence or some outside source". In practice most dangerous parts can at once be recognised by a person with ordinary imagination and experience after careful examination of the machine in motion.

#### Approaching Unfenced Machinery—Positional Safety

In the past a good deal of latitude has been allowed as respects occasional approach to unfenced machinery in motion. Under the new Act, this will be much more strictly limited and controlled. If a part of the machinery is left unfenced, on the ground that it is safe by reason of its position, *effective steps must be taken by the factory occupier to prevent anyone from getting within the danger zone while the machinery is running*. There is, however, an exception strictly confined to the case of a person carrying out, while the part of the machinery is in motion, an examination of the machinery which it is necessary to carry out while the machinery is in motion, or such work as the mounting or slipping of belts, lubrication or other adjustment shown by the examination to be necessary while the machinery is in motion. A person so engaged may approach the machinery for any of these purposes, if—

- (a) all belts, screws or other projections and all gearing with which the person would otherwise be likely to come in contact are securely fenced so as to prevent such contact,
- (b) the belt to be mounted or slipped is less than six inches in width and the joint is either laced or flush with the belt.
- (c) the person doing the job is a specially trained adult male worker, wearing tight fitting clothing, and his name is entered in the prescribed register of workers as a person designated for such duties.
- (d) any further precautions laid down in rules made by the Provincial Government are complied with.

The exception does not, as some people may imagine, permit every kind of work to be carried out on unfenced moving machinery provided that it is done by a person as specified in paragraph (c). To make the matter clearer the following test questions should be asked in regard to any proposed operation:—

- 1. Is it an examination which *must* be carried out while the part is in motion?
- Or 2. Is it a lubrication or adjustment, which is shown by such examination to be *really necessary* and *must* it be done while the part is in motion?
- Or 3. Is it a lubrication of, or slipping or mounting of belts on, transmission machinery, which cannot be deferred until the machinery is stopped?

If one of these questions cannot be answered unreservedly in the affirmative, the operation proposed is not legal.

When an accident occurs on an unguarded or badly guarded machine, factory occupiers sometimes plead that the machine has been in use for 10, 20 or 30 years and has never previously injured anybody. The assumption appears to be that if a machine has been in use for many years without causing an injury, it cannot really be dangerous—even if eventually it has killed somebody. This assumption which is contrary to common sense and to good safety practice is also contrary to the law. What the Court has to decide, if an occupier is charged with a breach of Section 21(1)(c), is whether at the time of the alleged offence the machinery was dangerous. If it was, its previous history does not affect the issue.

### **Training and supervision of young persons working at certain machines**

This important new Section lays down the principle that a young person must not work at certain dangerous machines unless:—

- (a) he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and
- (b) he has received sufficient training in work at the machine or is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

It is left to the Provincial Governments to specify the machines to which this Section shall apply and in so doing they will no doubt bear in mind the many distressing accidents which young persons have had on power presses, milling machines, guillotines, platen printing machines and certain types of carding machines.

### **Additional Safeguards in connection with Transmission Machinery**

1. A type of accident associated with overhead shafting is that caused by the dangerous practice of allowing belts to hang idly on a revolving shaft. Such a belt may easily lap on the shaft, and any worker in the immediate vicinity may be caught by it and dragged up around the shafting. This danger is met by a requirement in the Act that a driving belt, when not in use, shall not be allowed to rest or ride on a revolving shaft. Belt hangers or perches should therefore be provided, or the shaft may be sleeved or encased so that the belt can rest on the sleeve or casing.

2. It is obviously very desirable that there should be in every workroom some efficient means of cutting off the power promptly from the machinery. This may be done by fitting fast and loose pulleys, clutches or stop buttons and the provision of such stopping devices is required in every room where electricity is the motive power, and in the case of factories registered after the date of this Act, in all rooms whatever motive power is used. If such devices had been fitted in the past, many accidents to workers engaged in replacing belts on overhead pulleys, or carrying out repairs near overhead shafting, would have been avoided or the severity of the injuries reduced.

3. The dangerous practice of moving running belts by hand from one pulley to another and the unexpected starting of machines because of the belt creeping from the loose to the fast pulley have caused many accidents. A recent example occurred in a leather works where large drums driven by power and revolving on a horizontal axis are used. A worker entered a drum to clean it and when so engaged, the drum turned and trapped his body between the edge of the opening in the drum and part of the fixed structure. His injuries were so serious that he died. Investigations showed that when the belt was on the loose pulley it could, and did in fact, overlap the fast pulley and cause the drum to revolve. The new Act requires that suitable mechanical devices must now be provided and used for moving driving belts, and they must be so constructed that they prevent the belt from creeping.



### **Fencing of Materials or Articles in Machines**

The materials or articles being worked upon in a machine may, when in motion, be quite as dangerous as parts of the machine itself. For example, the stock-bar of a lathe, that is the long bar of metal which passes through the spindle of a hollow spindle lathe, presents the same danger as a revolving shaft, and a worker's clothing or hair are liable to be entangled on it and cause serious or even fatal injuries. All these bars must now be securely fenced by enclosing them in a metal tube or by other equally effective means.

### **Self-acting Machines**

Sometimes a self-acting machine, such as a spinning mule or a metal planing machine, is so placed that when it runs outwards or inwards to its full extent there is very little space left between it and the wall, or a girder, or another machine. If a worker happens to be in that space he is likely to be trapped and severely injured, and in fact many such accidents have happened, and some have proved fatal. To reduce the risk of similar accidents the new law states that no traversing part of a self-acting machine, and no material carried on it, shall be allowed to run within a distance of eighteen inches from any fixed structure, if the space over which it runs is one in which a person is liable to pass.

In the case of machines installed before the 1st April 1949 which do not comply with this requirement, the Chief Inspector has power to permit the continued use of the machine subject to such conditions for ensuring safety as he thinks fit to impose. He might, for example, require the occupier to fence or box-in the space so that it is physically impossible for a person to pass. The emphasis here is on the words "physically impossible" and it should be carefully noted that the Chief Inspector is not likely to accept a flimsy guard or barrier which could readily be removed or broken.

### **Cleaning, etc. of Machinery by Women and Children**

The requirements of the new law are more stringent than the existing law. In future a woman or child will not be allowed to clean, lubricate or adjust any part of machinery in motion or to work between moving parts of machinery in motion. Furthermore, the Provincial Governments have power to extend this prohibition to all persons irrespective of sex or age in any specified factory or class or description of factories.

### **Construction and Sale of New Machinery**

For some years the designers and makers of machines have recognised that proper safeguarding of dangerous parts should be embodied in the design. Unfortunately, this has not always been done. The absence of adequate guarding on new machines has often resulted in accidents to workers, and the purchasers of such machines feel that they have ground for complaint against the makers. The Act introduces a new principle, in that in the case of new machinery intended to be driven by mechanical power, certain requirements as to the sinking or guarding of set-screws, gearing, etc., must be complied with. When the machine is in a factory, the occupier of the factory is responsible for seeing that this is the case; but it is made an offence for any person to sell or let on hire (or as agent for the seller or hirer to cause or procure to be sold or let on hire) for use in a factory in India a machine which does not comply with the requirements.

### **Hoists and Lifts**

Hoists and lifts are responsible for numerous accidents and the new law requires, amongst other things, that every hoist and lift should be properly constructed and maintained, be examined at least every six months by a competent

person, have the hoist well protected, and the doors for the landing openings fitted with interlocking gates; additional safeguards, such as interlocking cage gates are required where persons are carried, whether with goods or otherwise. Provision has, however, been made for exemption to be given in certain cases from some of these requirements.

### **Cranes and Other Lifting Machines**

Important provisions are contained in the new Act relating to the use and maintenance of cranes and other lifting machines. Failure of parts of such machines is another source of many accidents and the new Act now says that all parts must be of good construction and be properly maintained; that they must be thoroughly examined at least once a year by a competent person and that they must not be overloaded. So many workers have been killed or injured by being struck by travelling cranes that a clause has been inserted in the Act requiring effective measures to be taken to ensure that a crane does not approach within 20 feet of any person working on or near the wheel track of the crane. Merely to warn the crane-driver is not sufficient; stop-blocks, detonators and/or cut-outs are more likely to be effective and one or more of these methods should be used.

### **Examination of Plant and Machinery by a "Competent Person"**

In certain Sections of the Act reference is made to a "competent person". For example, Section 28 states that.....every hoist and lift shall be thoroughly examined by a "competent person".....and Section 29 that .....every part of a crane or other lifting machine shall be thoroughly examined by a "competent person".....Occupiers will naturally enquire—who is a competent person for the purpose of examinations under the Act?

The question whether a person who makes an examination is competent for the purpose depends on the circumstances of the case and it is not possible to give an authoritative definition. It may be said, however, that what appears to be contemplated is that the person should have such practical and theoretical knowledge and actual experience of the type of machinery and plant which he has to examine as will enable him to detect defects or weaknesses which it is the purpose of the examination to discover, and to assess their importance in relation to the strength and functions of the particular plant or machinery.

While the occupier of a factory is responsible for selecting a "competent person", the Act does not prohibit a firm from appointing one of their own staff, for example, their chief engineer, provided, of course, that he is competent.

### **Precautions against Dust Explosions**

Amongst the more important new provisions are those directed against the dangers which arise from inflammable dusts, gases and vapours produced or used in industry. Most people know that coal dust is explosive and that this leads to many disasters in coal mines, but it may be a surprise to some to learn that other familiar domestic articles—such as flour, sugar and starch—are also explosive if they are ignited when in the form of a dust cloud. Some of the worst factory disasters have been due to dust explosions. Hence, where inflammable dusts are produced by grinding or other processes, the new Act requires special precautions to be taken, such as enclosing the plant, keeping the rooms free from dust and keeping away naked lights.

### **Welding, Soldering, etc., on Plant, Tanks or Vessels**

Accidents often happen when people attempt to repair empty tanks and other vessels which have contained petrol or other inflammable liquids. In order

to prevent these, the law now requires that, before any welding, soldering, brazing or cutting operation, which involves the application of heat, is carried out on any plant, tank or vessel which has contained any explosive or inflammable substance, all practicable steps must be taken to remove the substance and fumes or to make them non-explosive. Petrol and similar vapours can generally be removed by steaming and ventilating a tank or drum.

#### **Confined Spaces where Dangerous Fumes are Liable to be Present**

New provisions are introduced which apply to a wide variety of places and plant, such as chambers, tanks, pits and pipes, where dangerous fumes are liable to be present to such an extent as to involve the risk of persons being overcome by the fumes. Requirements are laid down as to (a) the provision of effective means of egress such as a manhole of adequate size, (b) prohibiting the use, inside the space, of hand or portable electric light of voltage exceeding 24 volts, and (c) prohibiting the use of any lamp or light, other than those of flame-proof construction, if the dangerous fumes are likely to be inflammable. The Act also prohibits persons from entering such confined spaces unless certain precautions are taken, such as (a) the taking of necessary steps to remove fumes and to prevent fumes from entering and (unless certain conditions are fulfilled) the wearing of a life belt and a breathing apparatus, (b) the provision and periodical inspection of breathing apparatus, reviving apparatus, and belts and ropes, (c) the training of persons in the use of the apparatus and in artificial respiration. Provision has been made to grant exemption in certain cases and to specify minimum dimensions of manholes.

#### **Protection of Eyes**

A great many accidents causing eye injuries occur in factories every year. A large proportion of these accidents arise from the use of hand tools, lathes and grinding wheels. Under the new Act power has been given to Provincial Governments to prescribe the provision of effective screens or suitable goggles for the protection of persons employed on certain processes or in the immediate vicinity of the processes. Also, a new Section in the Act expressly requires the workers to use protective devices. Very often the individual worker seems obsessed with the idea that screens and goggles, for example, are not necessary in his case. An interesting instance of this came to light recently. Two men were grinding metal articles on the two emery wheels of a double-ended grinder. One was wearing goggles but the other man's goggles were lying in a box in front of the machine. When asked why he was not wearing them like his mate, he replied, "Oh, he's only got one eye". The first man had in fact lost his eye when not wearing goggles on this grinding work.

#### **Revolving Wheels, Vessels, etc.**

Anybody who has seen the havoc wrought by a burst fly-wheel or who has personal knowledge of an accident due to the failure of an abrasive wheel, etc. will readily agree that the Section of the Act dealing with revolving wheels and vessels is an important one. This Section lays down that effective steps shall be taken to ensure that the safe working peripheral speed of certain wheels and vessels, such as, flywheels, discs, pulleys, baskets, abrasive wheels, grindstones, etc., shall not be exceeded. It also requires, in the case of abrasive wheels and grindstones, that a notice of the safe speed shall be permanently affixed to each machine.

#### **Pressure Plant**

Precautions in respect of machinery or plant working at a pressure above atmospheric pressure are obviously necessary when one considers the danger of an

explosion or failure of the plant in a crowded factory. The Act, therefore, requires precautions to be taken to ensure that the safe working pressure of any such plant is not exceeded. Power has been given to the Provincial Governments to make Rules specifying details of examination and test of pressure plant and to prescribe the provision of such other safety measures as may be necessary. All this is in accordance with modern industrial practice and the precautions are now taken as a matter of course.

### **Precautions against Falls**

Persons falling on the flat or through openings in the floor or into pits or sumps, etc. account for a large proportion of the annual total of non-machinery accidents. Provisions in the new Act are designed to reduce this total by requiring floors, stairs, gangways, etc. to be kept in good order and handrails to be fitted where necessary to secure safety. Pits or tanks or openings in floors which are a source of danger must be covered or securely fenced and there must be safe means of access to every place at which any person is at any time required to work.

### **Lifting Excessive Weights**

Another new provision is that no person shall be employed in a factory to lift, carry or move any load so heavy as to be likely to cause injury to him or her. It also empowers the Provincial Governments to make Rules prescribing the maximum weights that may be lifted, carried or moved by persons employed in factories or in any process carried on in a factory.

### **Fire—Means of Escape, etc.**

The law as to safety provision in case of fire is very much strengthened. The general principle is that every factory must be provided with adequate means of escape in case of fire, and that if a factory is not so provided, an Inspector may serve on the Manager an order specifying the measures which should be taken and requiring them to be carried out before a specified date. The Act then goes on to lay down certain requirements in detail which may be summarized briefly as follows:—

**Doors.**—Doors of rooms must not be locked or fastened so that they cannot be easily and immediately opened from the inside and, unless they are of the sliding type, they must open outwards.

**Fire Exits.**—All exits, other than those in ordinary use, must be marked in red letters or by other effective sign.

**Audible Warning.**—Clearly audible means of giving warning in case of fire must be provided.

**Free Passage.**—Passage way to fire exits must be kept clear and free from obstructions.

**Fire Instruction.**—In the following cases (1) where in any factory more than twenty persons are employed in the same building above the ground floor, (2) where in any factory explosive or highly inflammable materials are stored or used, effective steps must be taken to ensure that all the persons employed are familiar with (a) the means of escape and their use, and (b) the routine to be followed in case of fire.

The Provincial Government may make Rules specifying the nature and amount of fire-fighting equipment to be provided in a factory and the means of escape from a factory.

**Safety of Buildings, Machinery, etc.**

If it appears to an Inspector that any building, part of a building, or part of the ways, machinery or plant in a factory is or may be dangerous to human life or safety, there are three courses of action open to him:—

**1. Imminent Danger.**—If danger appears to be imminent, he may serve on the factory manager an order in writing prohibiting its use until it has been repaired or altered.

**2. Danger not Imminent.**—If danger appears to exist but it is not imminent, he may require the factory manager to adopt certain measures before a specified date.

**3. Possibility of Danger.**—If danger is possible he may require the factory manager to furnish drawings, specifications and other particulars or to carry out certain tests and to inform the Inspector of the results.

**Penalty for Offences.**

If there is a contravention of the Act, or of any Rule or Order made under the Act, both the factory occupier and the factory manager may be held guilty of an offence and punished with imprisonment for three months, or with a fine of five hundred rupees, or with both. And if the contravention is continued after conviction, a further fine of seventy five rupees may be inflicted on them for each day on which the contravention is continued.

In certain circumstances workpeople are also liable to imprisonment and a fine but, in general, responsibility for securing compliance with the Act and Rules rests with the occupier and factory manager.

**Powers of Provincial Governments.**

Wide powers have been given to the Provincial Governments to make Rules on matters which may be expedient to give effect to the safety provisions of the Act, *e.g.*, power to require the provision of automatic guards, further fencing of particular machines or articles in motion in machines, and for stopping machines in case of danger, etc. They also have power to grant exemption from compliance with certain requirements of the Act in cases where such compliance is unnecessary or impracticable.

## OCCUPATIONAL DISEASES : A GUIDE TO RECOGNITION AND NOTIFICATION<sup>1</sup>

### Arrangement of Paragraphs

Introduction.

Basic Considerations of Occupational Disease

Occupational Diseases.

1. Lead Poisoning, including Poisoning by any preparation or Compound of Lead or their Sequelae.
2. Lead Tetra-ethyl Poisoning.
3. Phosphorus Poisoning or its Sequelae.
4. Mercury Poisoning or its Sequelae.

<sup>1</sup> The Factories Act, 1948 has incorporated certain provisions regarding notification of Occupational Diseases and medical supervision in factories. The Chief Adviser, Factories, Government of India, has issued this Guide, about the existence of such diseases and the circumstances under which they arise, for the factory managements and attending medical practitioners who are responsible for notification of Occupational Diseases. The Human Sketches in the Guide, viz., Loci of Clinical Manifestations have not been reproduced here.

5. Manganese Poisoning or its Sequelae.
  6. Arsenic Poisoning or its Sequelae.
  7. Poisoning by Nitrous Fumes.
  8. Carbon Bisulphide Poisoning.
  9. Benzene Poisoning, including Poisoning by any of its Homologues, their Nitro or Amido Derivatives or its Sequelae.  
Benzene; Toluene, Xylene; Aniline; Nitrobenzene; Trinitrotoluene.
  10. Chrome Ulceration or its Sequelae.
  11. Anthrax.
  12. Silicosis.
  13. Poisoning by Halogens or Halogen Derivatives of the Hydrocarbons of the Aliphatic Series.  
Chlorine; Trichlorethylene; Carbon Tetrachloride; Methyl Bromide.
  14. Pathological Manifestations due to—  
(a) Radium or other Radio-Active Substances.  
(b) X-Rays.
  15. Primary Epitheliomatous Cancer of the Skin.
  16. Toxic Anaemia.
  17. Toxic Jaundice due to Poisonous Substances.
  18. Compressed Air Illness or Sequelae<sup>2</sup>.
- Principles of Occupational Disease Prevention.
- Appendix—Form of notice of disease or poisoning.

## OCCUPATIONAL DISEASES: A GUIDE TO RECOGNITION AND NOTIFICATION

### Introduction

The *Workmen's Compensation Act* has been in force since 1923. Although the Act recognizes 12 Occupational Diseases as compensable, there have been very few claims for compensation for such diseases. There are many reasons for this. Probably the main reason is, as mentioned in a comprehensive report on labour conditions in the country, the failure on the part of industrial management, practising physicians and others concerned, to recognize the diseases in question.

The acceptance of the factor of occupation as a cause of specific disease is further emphasised by the *Factories Act*, 1948 in which is incorporated a schedule of notifiable Occupational Diseases. Notification of the occurrence of these diseases is now compulsory both upon the attending physicians and factory managements. It is only by having the knowledge as to where and under what circumstances the occupational diseases occur, can appropriate steps be taken to prevent the further occurrence of such diseases. A wealth of information on occupational disease prevention is now available as a result of research and investigations carried out in the other industrially advanced countries; this knowledge when applied to conditions in India should be of help in reducing the incidence of occupational diseases. It is to assist all persons concerned with the many sides of this problem that this booklet has been prepared.

**For whom the booklet is intended.**—This booklet, although written primarily for medical personnel, will, it is hoped, be of interest to many other groups and individuals. The private practitioner, who so often is the first person to see the ailing worker, will obviously be interested in the technical discussions. He, as well as the factory doctor, hospital medical officer, public health medical officer, medical factory inspector, certifying surgeon, and insurance medical officer, may wish to have more than the limited information provided herein. They will find it useful to study the material contained in the carefully selected references relating to the diseases in which they may be primarily interested.

Factory inspectors, labour welfare officers, personnel managers, safety officers and other persons concerned with the well-being of the workers may also find the information presented in the booklet of value in understanding some of the problems they may be faced with in their day-to-day work.

**Manner of presentation of the data.**—Since the training, experience, and interests vary in the different groups for whom the contents are prepared, the manner of the presentation

<sup>2</sup> Not included in the Notifiable Diseases mentioned in the Schedule of the *Factories Act*, 1948 but listed in Schedule III of the *Workmen's Compensation Act*, 1923.

has been carefully considered. In the first instance a brief discussion is given of some of the basic principles which are applicable to most of the diseases under consideration. Following this section the diseases themselves are discussed. This is limited, in essence, to those conditions listed in the "Schedule" of the Factories Act, 1948. The only exception is the inclusion of the item "Compressed air illness or its sequelae", which is found in "Schedule III" of the *Workmen's Compensation Act*, 1923, and which is not listed in the "Schedule" of notifiable diseases of the Factories Act, 1948.

**Outline followed in describing each occupational disease.**—For each of the disease conditions the description will be presented in the following manner, where it is feasible: (1) definition of the disease; (2) name of the causative agent, together with its more common synonyms; (3) the nature of the agent; (4) the occupations (trades or professions) in which exposure to the causative agent or agents may be expected to occur; (5) the metabolism of the agent in relation to its toxicity; (6) pathologic and physiologic action of the agent; (7) a brief description of the clinical syndrome, with special diagnostic features; (8) significant factors in regard to prophylaxis and therapy for each disease.

### Basic Considerations of Occupational Disease

**Importance of the work history in diagnosis.**—There is no organ of the body which cannot be affected by occupational disease. It is reasonable, therefore, to find that the symptoms and signs, that may appear among the manifestations of such diseases, are very often indistinguishable from those symptoms and signs that may occur with other diseases unrelated to occupation. Indeed there are certain diseases which may be occupational or non-occupational dependent upon circumstances, *e.g.*, anthrax, tuberculosis and cancer. Thus, it will be apparent that many difficulties may arise in the diagnosis of occupational disease; more so, if occupation, as a possible cause of illness, is overlooked. Obviously, therefore, in the consideration of the differential diagnosis of occupational disease, it is essential that a proper and complete history of the patient be obtained.

It is not enough to ask the patient for his present occupation only. Many diseases of occupation require months or even many years for their development. It is, therefore, necessary to go back in time and to inquire about his entire work history, beginning with the time that he obtained his first job.

**The avenue of entrance of industrial toxic agents into body.**—The toxic agents used in industry may enter the body through the skin or the mucous membranes. In either case the predominant action may be local, at the point of contact, or systemic. When the action of the agent is local on the skin, many types of dermatoses may occur.

**Local effects.**—These may give rise to eczemas (as with exposure to a large host of substances), skin burns (as with exposure to acids or alkalis), acne (as with exposure to paraffin oils), skin anthrax (as with exposure of the broken skin to the *Bacillus anthracis*), and skin cancer (as with exposure to X-rays). When the action is local on the mucous membranes the effects may again be quite variable. One may develop ulceration of the nasal septal lining (as with exposure to certain hexavalent chromium compounds), irritation of the trachea (windpipe) (as with exposure to acid fumes and mist), marked irritation of the lungs (as with exposure to the oxides of nitrogen), inflammation of the eye membranes (as with direct exposure to ultraviolet rays generated in electric arc-welding).

**The respiratory tract as the main avenue of entry.**—The effects of industrial exposure to toxic materials or conditions may also manifest themselves in organs or tissues remote from the point of initial contact of the agent with the body. In essence, this requires absorption of the agent and its removal to another site in the body to produce disease. Although the skin may serve as an avenue of entrance for a limited number of materials (*e.g.*, X-rays, aniline, lead tetra-ethyl), by far the most important avenue of entry is through the respiratory tract. It is the exposure to the inhalation of dusts, fumes, gases, vapours, or mists of potentially toxic materials that most commonly produces serious systemic disease. The inhaled material is absorbed into the blood and carried to the vulnerable organs to produce the disease.

Although the lungs offer a very large area for absorption of the noxious agents, and by virtue of this fact the respiratory tract becomes the major avenue of entry, the respiratory tract also has mechanisms which work in the opposite direction, to prevent absorption. In the first place the filtering action of the nose, with the nasal hairs and the devious channelling of the air, as it moves against moist surfaces, catches a great part of the larger particulate matter which may then be removed by discharge of the mucus. The vigorous action of the hair-like structures that are present on the mucosal surface of the trachea, as well as the local mucoid secretions, also assist in trapping and removing larger particles. It is only the finer particles, of sizes less than 3–5 microns that can reach the surfaces

of the air-sacs of the lung for possible absorption into the blood from which they may be transported to vulnerable organs.

**Ingestion as a minor factor in industrial poisoning.**—In general, swallowing of toxic agents is of relatively minor importance in industrial poisonings. Certain factors, however, may permit the digestive tract to contribute a not inconsiderable part to the total dose of the toxic agent which the body may receive. Swallowing of mouth and nasal secretions, chewing of tobacco or betel, eating of meals with hands contaminated with the noxious agent, and eating in workrooms, each may act as a contributory factor, since each one permits the possibility of swallowing of the noxious agent and its introduction into the intestinal tract for possible absorption.

**Physical agents.**—Mention must be made of the role of physical factors, such as excessive heat, excessive humidity, and radiant energy in the causation of illness in industry. Local action of ultraviolet rays may possibly cause damage to the eye tissues. Ionizing radiation may produce damage to the skin or it may, by its cumulative effect, produce serious damage to other vital organs.

**Dosage as a factor in industrial poisoning.**—Not all exposures to noxious industrial agents produce disease, either latent or manifest. Dosage is an important factor. To determine if the suspected noxious agent could have been a causative factor in the disease under consideration, one needs to know as to how much of the toxic agent and for how long a time the worker was exposed. The man who has been working in a lead accumulator plant for only one day or one week is unlikely to have developed lead poisoning therefrom. On the other hand, the worker who is employed for perhaps only a few days, without protective equipment, in removing a lead-bearing paint from steel by the use of an acetylene torch will have a tremendous exposure to fumes of lead compounds, and may truly develop symptoms of acute lead poisoning in such a short period of time.

**Maximum allowable concentration.**—In this latter instance the concentration of the noxious agent in the breathed air, as well as its fine particle size, are of significance in causing poisoning. Clinical experience from many surveys carried out in other countries has led to certain conclusions about the concentrations of noxious agents in air that are necessary to produce illness. The maximum allowable concentrations of many agents permissible in workrooms have been evolved from such data (*e.g.* benzol—25 parts per million parts of air). These values for maximum allowable concentrations are never to be regarded as absolute values, since the data on which they are generally based are not in any sense complete.

Since maximum allowable concentrations are given for an 8-hour work-day, it is obvious that if the daily period of work is longer than eight hours, there will be a proportionate increase in the dosage of the noxious agent received by the worker; conversely, his period of freedom from exposure, during which time he may excrete the poison, will be decreased. Both of these factors may contribute to earlier development of toxic effects, since the industrial poisons are, in many instances, cumulative poisons.

**Cumulative action of some industrial poisons.**—The cumulative nature of industrial poisons may depend on either an accumulation of the poisons to a toxic amount or to an accumulation of the effects to a level of clinical manifestation. Thus, in the case of exposure to mercury or its inorganic compounds, symptoms will not appear until a toxic level of the material in the body is reached. On the other hand, it appears likely that any amount of benzol will be damaging to the blood forming tissues (in the bone-marrow) and that repeated injuries to that organ finally result in loss of function of the marrow with resultant severe anaemia.

**Metabolism as a factor in toxicity.**—The cumulative action, however, is modified by the metabolism of the noxious agent. The metabolic process may result in direct detoxification, as with the change of toluol to hippuric acid which is then excreted in the urine as an inert material. Metabolism in the body can act to store the agent. This may result in decreasing or increasing the health hazard, dependent upon the material involved. Thus, a portion of the lead, taken into the body as an inorganic compound, is changed to an organic compound, and conveyed by the blood to the bones, where it is stored in a relatively inert form. This then is slowly excreted through the kidneys. Some of the radioactive elements (*e.g.* radium), however, which may be treated by the body in a like manner, result in serious injury to the bone and to the bone marrow.

**The excretion of toxic agents.**—Metabolism is, of course associated with excretion of the agents. Such excretory processes, although in general acting to reduce toxic effects by getting rid of the noxious agent from the body, may act to concentrate the noxious effect in the excretory organ itself. In addition to the generally accepted avenues of excretion, namely the urinary and the intestinal tracts, for purposes of the discussion of occupational



disease, the lungs, the skin and its appendages, and the salivary glands must also be considered as excretory organs.

The lungs allow egress of a large part of volatile solvents which it excretes unchanged. In the case of certain metals (tellurium, selenium) volatile organic compounds are formed in the body and these are then excreted in part through the expired air. The intestinal tract not only acts to rid the body of an appreciable portion of those noxious agents that may be swallowed, but some agents (*e.g.* mercury) are actually secreted through the wall and into the large intestine. Not infrequently such secretion results in severe diarrhoea. Some mercury leaves the blood by secretion into the bile which is then excreted into the intestines. The role of the kidney as an excretory organ for such foreign materials as lead, arsenic, and mercury is well known. Less well-known is the excretory function of the urinary tract in connection with the metabolic products of the aniline dye intermediate, beta-naphthylamine, with resultant bladder cancer.

The appendages of the skin (the hair, the finger-nails and toe-nails) are, in a sense, excretory organs for arsenic. The sweat glands excrete organic tellurium compounds, the tellurium having gained entry into the body as an element or as inorganic compounds. Finally, it may be mentioned that mercury is excreted through the salivary glands, and it is by virtue of this fact that gum inflammation is believed to occur.

### Occupational Diseases<sup>3</sup>

#### 1. Lead Poisoning including Poisoning by any preparation of Compound of Lead or their Sequelæ

**Definition.**—Lead poisoning is a disease due to lead or one or more of its compounds, and is clinically characterized by its effects on the blood-forming organs, the alimentary (digestive) tract, the peripheral and central nervous systems, and the musculo-skeletal system. One or more of these organ systems may be affected. The blood-forming organs are affected with the occurrence of mild to moderate anæmia, the intermittent occurrence in the circulating blood of a stippled appearance of the red blood cells, irregular increase of white blood cells and abnormal blood pigment metabolism. The alimentary tract is affected with the appearance of the Burtonian "line" of the gums, marked constipation, rarely diarrhoea, and acute attacks of abdominal pain. The peripheral nervous system is affected with the appearance of motor neuritis, especially of the radial and peroneal nerves, leading to "wrist drop" and "foot drop" respectively. The central nervous system is affected with the appearance of disease of the brain. The musculo-skeletal system manifestations are muscular atrophies (loss of muscle bulk), joint pains and low back pain. The sequelæ (end results) of lead poisoning may include weakness, joint pains, back pains, and a tendency to the recurrence of acute attacks when, for any reason, there is a drop in alkali reserve of the blood.

**Causative agents.**—Lead (chemical symbol Pb) Synonym: plumbum.

Lead is a heavy malleable, ductile gray soft metal of low tensile strength. The melting point of lead is 327.4°C, and its boiling point is 1525–1620°C. It is derived commercially mostly by the roasting and reduction of the ore, galena. Industrially metallic lead is very often used as an alloy.

**Lead Compounds.**

Of the large number of lead compounds known to exist, only a few are of commercial, and therefore, of industrial interest. The more important of these are lead carbonate, lead sulphate, red lead, lead chromate, lead arsenate, litharge, lead peroxide, lead sulphide, lead suboxide, lead sesquioxide, basic lead carbonate, lead acetate, lead chloride, lead nitrate, and lead tetra-ethyl.

**Occupations involved.**—There is a very large number of occupations in which there is a potential exposure to lead or one or more of its compounds. The more important, in terms of severity of possible exposure, are the following:—

(1) Babbitt-metal handlers; (2) Colour (inorganic) makers; (3) Cable makers; (4) Electrotypers; (5) Glass mixers; (6) Lead burners; (7) Lead-pipe makers; (8) Litharge workers; (9) Red lead workers; (10) Paint makers; (11) Refiners of metals; (12) Storage battery workers; (13) Type melters and (14) White lead makers.

A lesser degree of exposure to lead occurs in the following:—

(1) Brass foundries; (2) Cannery; (3) Compositors; (4) Compounders of rubber; (5) Glaze mixers and dippers; (6) Linotypers; (7) Monotypers; (8) Painters; (9) Paint removers; (10)

<sup>3</sup> For the Notice of certain diseases and the List of Notifiable Diseases, see section 89 of the Factories Act, 1948 and the Schedule.

Plumbers; (11) Printers; (12) Solder makers and solderers; (13) Sprayers of trees; (14) Stereo-types and (15) Type foundries.

**Metabolism.**—In industrial processes, lead and its compounds may enter the body through the respiratory tract, and, to a lesser extent through the gastro-intestinal tract. (An exception is lead tetra-ethyl which may enter the body by absorption through the intact skin. This is treated separately). After absorption from the lung, the lead compound is carried by the blood (95 per cent. in the red blood cells) as an organic compound, from where it is deposited in vital centres to produce its effect. A large part of the lead is, however, deposited in the bony skeleton, especially in the long bones, and a portion is regularly excreted by the kidneys.

**Pathogenesis.**—Lead poisoning occurs when the critical amount of lead is exceeded in the blood and tissues. The manner in which tissue (and organ) effects are produced by lead in the blood and tissue fluids has not been exactly defined.

**Clinical features.**—Lead poisoning may become clinically manifest by its effects on the blood, the digestive tract, the peripheral and central nervous systems.

The blood effects include mild to moderate anaemia, irregular increase of white blood cells, intermittent increase of the number of red blood cells showing stippling, and abnormal pigment metabolism. The clinical manifestations which may be associated with these effects are pallor, weakness, and an increase of urinary excretion of porphyrins. The pallor ("yellow-pallor") is marked and is, usually, out of proportion to the degree of anaemia present. It is likely that the pallor is at least partly due to constriction of the superficial blood vessels of the facial skin.

The clinical manifestations in the alimentary tract include the Burtonian "line" of the gums ("lead line"), constipation to severe obstipation, intestinal colic, and nausea and vomiting. The Burtonian "line" consists of a finely granular line of a bluish-black deposit of lead sulphide in the gums a short distance from the gum margin, usually on the outside portion of the gums, although it may also be found on the inside at the bicuspid teeth and first molars. It is generally found when there is bad oral hygiene. It must be distinguished from gum congestion and the normal mucosal pigmentation found in dark-skinned peoples. A similar "line" can be produced by bismuth, and differentiation in such cases will depend upon medical history.

Constipation may be severe, and leads to the continued absorption of any lead compound that may reach the intestinal tract. The practice of providing purgatives routinely to workers exposed to lead is to be deplored, for it is not truly a preventive procedure. Constipation, when it has a high incidence among lead workers, should be considered as an indication of the need for engineering control methods to decrease the exposures.

Intestinal colic, is usually preceded by a few days of marked constipation, loss of appetite, and a sense of abdominal discomfort. The colic starts suddenly with severe spasmodic pains, usually in the lower half of the abdomen, and may last from a few seconds to several minutes, only to recur after some minutes to hours. It is often partially relieved by the patient himself, who applies continued pressure to the area of discomfort, by the use of a pillow or his fists. Although there may be some abdominal tenderness during attacks of colic, commonly there is absence of rigidity of the abdominal wall. The pain is often associated with mild to moderate degrees of symptoms of shock. With treatment, intestinal colic due to lead may be relieved in a few days, otherwise it may go on for weeks.

The peripheral nervous system effect is manifested with inflammation of nerves, usually of the motor portions, ending in varying degrees of paralysis. The radial nerve, and less often the peroneal nerve, is affected, especially that of the right side in right-handed persons. These involvements are clinically expressed by paralysis of the muscles supplied by those nerves, the ultimate effect being wrist drop, and, less frequently, foot drop.

The central nervous system damage is the most serious form of illness due to lead; but, fortunately, this is rare except in poisoning due to lead tetra-ethyl. It is characterized by evidence of irritation of the brain cortex and its lining membranes, and is manifest by headache, dizziness, sleepiness or insomnia, stupor, convulsions, and coma, often terminating fatally. Mania and mental confusion may occur.

The musculo-skeletal system effects may include pain in the large joints, low back pain, and muscular atrophies. The muscular atrophies are, possibly, due to the motor nerve injuries.

**Diagnosis.**—Since lead poisoning clinically imitates many other medical conditions, the first responsibility of the medical attendant, as with other occupational toxic exposures, is to rule out these other clinical entities. After having done that the following confirmatory

As a sequel to chronic (industrial) phosphorus poisoning there may be: Loss of teeth, deformity of face, scarring of face.

#### 4. Mercury Poisoning or its Sequelæ

**Definition.**—Mercury poisoning, industrially, is a disease due to the inhalation of mercury vapour or dust of the compounds of mercury, and is characterized by symptoms and signs of the alimentary tract and the central nervous system. The alimentary tract manifestations include excessive salivation, gingivitis (gum inflammation), and diarrhœa. The effect on the central nervous system may result in weakness, tremors especially of the hands and the tongue which are exaggerated by effort, and the mental abnormality termed erethism. In contra-distinction to the condition in acute mercury poisoning which may occur due to the ingestion of inorganic mercury compounds, usually with suicidal or homicidal intent, kidney disease is an unusual occurrence in industrial mercury poisoning. Organic mercury compounds which have recently found use especially in modern agriculture, have their effect mainly on the central nervous system. The sequelæ of industrial mercury poisoning may include permanent mental disturbances and the loss of teeth.

**Causative agent.**—Mercury. (Chemical symbol Hg). Synonyms: hydrargyrum, quick-silver.

It is a silvery mobile liquid, with a melting point of  $38.85^{\circ}\text{C}$ . and a boiling point of  $357.33^{\circ}\text{C}$ . At ordinary temperatures and pressures mercury has an appreciable vapour tension, resulting in the appearance of relatively large amounts of its vapour in the air.

Mercury compounds of industrial importance are mercurous nitrate, mercuric sulphide, mercuric chloride, mercury fulminate, mercuric oxide, and several alkyl mercury derivatives.

**Occupations involved.**—Occupations in which exposure to mercury may occur include the following:—

(1) Barometer makers; (2) Dentists; (3) Explosive cap loaders; (4) Extractors (refiners) of gold and silver; (5) Laboratory workers; (6) Mercury alloy and amalgam makers; (7) Thermometer makers and (8) Wood preservers.

**Metabolism.**—In mercury exposures in industry, the metal enters the body by inhalation of the vapour from where it is absorbed into the blood and carried to vital centres. Practically all of the mercury so inhaled is absorbed. The same is the case with those compounds of mercury which may appear as dust in industrial environmental air. An appreciable portion of the absorbed mercury is excreted through the kidneys and it is a matter of controversy as to whether or not an estimate of the amount of mercury in the body can be obtained from the urine analysis. Some of the mercury in the body is secreted into the intestines and is excreted in the faeces.

**Clinical features.**—Mercury and its compounds cause symptoms of the alimentary tract and central nervous system. The effects on the alimentary tract include excessive salivation, gingivitis, loss of teeth, and diarrhœa. The central nervous system effects are manifest by tremor exaggerated by effort and the mental effect, erethism. The tremor is most easily observed in the handwriting. Erethism is a mental condition that is noted by marked shyness, easy blushing and "quick temper" of the individual. A complete change may be noticed in the patient's temperament. He becomes extremely embarrassed if he is watched while at work.

**Prophylaxis.**—Prevention of industrial poisoning by mercury requires strict adherence to control measures for preventing the inhalation of vapour and dust. Any spillage of mercury that occurs should be immediately cleaned up. The maximum allowable concentration of mercury is considered to be 0.1 mg per cubic meter of air.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in chronic (industrial) mercury poisoning:

1. Alimentary tract effects: Excessive salivation, inflammation of gums, loss of teeth, diarrhœa.
2. Central nervous system effects: Tremor exaggerated by effort, and erethism (a mental condition characterized by shyness, easy blushing, "quick temper", change from normal temperament).

#### 5. Manganese Poisoning or its Sequelæ

**Definition.**—Manganese poisoning in industry is a disease due to the inhalation of dust or fume of manganese compounds and is characterized by symptoms of the central nervous system, and, less frequently of the liver and lungs. The effect on the central nervous system gives rise to a group of symptoms which simulates the disease paralysis agitans. The effect on the liver is said to be due to the development of cirrhosis (scarring). Persons exposed to manganese compounds are believed to be especially susceptible to attack of pneumonia.

**Causative agent.**—Manganese (Chemical symbol: Mn).

There is only one compound of manganese that needs consideration as an industrial toxic agent, and that is manganese dioxide. It occurs in nature in the ore, pyrolusite. Manganese dioxide is a black crystalline or amorphous powder. Synonyms: Manganese bioxide, battery manganese, manganese peroxide, and glass makers soap.

**Occupations involved.**—Industrial exposure to manganese compounds occurs in mining and processing of manganese ore, in dry-cell battery making, and in manganese brick making.

**Metabolism.**—Manganese is an element which is required in trace amounts in nutrition for the proper functioning of certain enzymes. Most of the manganese that finds its way into the system through food is excreted in the faeces. The minute amounts normally retained are found mostly in the liver, bones and lymph glands. When manganese compounds are inhaled they are absorbed into the circulation and carried to vital centres to produce their effects. Excretion occurs through the kidneys.

**Clinical features.**—The typical case of manganese poisoning resembles the disease paralysis agitans. Early symptoms are weakness and sleepiness. The individual then develops a characteristically stiff gait, mask-like facial expression, and tremor of the hands, with slow rhythmic movements of the arms and legs. Mental changes may occur and include uncontrollable laughter and mental dullness. A hesitant form of speech may be present. All these signs and symptoms indicate disease of the mid-brain, and at post-mortem examination such areas are actually found to show degeneration.

**Prophylaxis.**—To prevent manganese poisoning in industry, all efforts must be directed at preventing inhalation of the dust. The maximum allowable concentration of manganese dust in the air of workrooms is relatively a large amount, and is recorded as 6.0 mg. per cubic meter of air. Periodic medical examination will be effective in preventing severe damage in that it will enable the removal from further exposure of those who show early signs of damage.

(Human sketch—Locs of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in manganese poisoning: Weakness, sleepiness, stiff gait, mask-like facial expression, tremor of hands, uncontrollable laughter, mental dullness.

## 6. Arsenic Poisoning or its Sequelæ

**Definition.**—Arsenic poisoning in industry is a disease due to the inhalation of arsenic compounds and is characterized by skin changes, inflammation of nerves, anæmia and diarrhœa, and probably an increased tendency to develop cancer. The characteristic skin changes include thickening and peeling of the skin (keratosis), dermatitis and skin cancer.

Arsine gas, one of the arsenic compounds, deserves special consideration since it is not an infrequent cause of industrial poisoning. It produces its effect in an acute form even from a single inhalation, and is characterized by destruction of red blood cells with its attendant phenomena, which may include the presence of hæmoglobin in the urine, jaundice, and severe kidney injury.

**Causative agents.**—Arsenic (Chemical symbol: As).

Only certain of the arsenical compounds are significant as potential industrial poisons. They are arsenic trioxide (synonyms: arsenious anhydride, white arsenic, and arsenious acid), Paris green (synonyms: copper aceto-arsenite, Imperial green), Scheele's green (synonym: cupric arsenite), lead arsenate and arsine.

Arsine (chemical symbol:  $\text{AsH}_3$ ) is a gas with a characteristic garlic-like odour. It may be produced accidentally when nascent hydrogen is formed from an inorganic acid in the presence of even traces of arsenic occurring as impurities.

**Occupations involved.**—Industrial exposure to arsenic compounds may occur in the following occupations:—

(1) Brass foundries; (2) Compounders of rubber; (3) Copper foundries; (4) Farmers; (5) Insecticide makers (6) Lead smelters; (7) Painters; (8) Paint makers; (9) Refiners of metals; (10) Sprayers of trees; (11) Sulphuric acid makers and (12) Wood preservers.

Arsine gas may occur in the following occupations:

(1) Hydrochloric acid workers; (2) Picklers of metal (in acid); (3) Storage battery workers and (4) Sulphuric acid workers.

**Metabolism.**—In industrial arsenic poisoning arsenical compounds enter the body through the lungs as dusts. Arsine is an exception to this. The arsenic is then absorbed into the blood from where it is carried to vital centres to produce the clinical effects. Arsenic is distributed to all the organs and tissues of the body and is found even in the hair and finger-nails.

Arsine, when inhaled, rapidly enters the blood stream and causes destruction of the red blood cells. The arsenic of the compound is excreted largely through the kidneys.

**Clinical features.**—Clinically excessive absorption of arsenical compounds produces skin, nerve, and gastro-intestinal symptoms. The skin manifestation, which in part may be due to direct contact of the dust, is most often a thickening (keratosis) which may lead to true inflammatory dermatitis. Nerve inflammation is an infrequent finding. Diarrhœa is a manifestation of industrial arsenic poisoning. Cancer incidence has recently been shown to be inordinately high in occupations involving exposure to arsenical compounds.

Arsine produces its effect by causing disintegration of the red blood cells. The hæmoglobin freed in the circulating blood is excreted through the kidneys. This excretion may injure the kidneys. Some of the freed hæmoglobin left in the body may subsequently appear as unexcreted bile pigment, and result in jaundice. Anæmia, when it occurs, is generally moderate.

**Prophylaxis.**—The prevention of absorption of arsenical compounds is essentially a problem of dust control. In the case of arsine, greater difficulty is encountered since its production is almost invariably an accidental one. The maximum allowable concentration of arsenical compounds, other than arsine, is given as 0.15 mg. per cubic meter of air. The maximum allowable concentration for arsine is stated to be 0.05 parts per million of air.

(Human sketch—Loca of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in arsenic poisoning. Thickness and peeling of the skin, inflammation of the skin, diarrhœa, nerve inflammation, weakness.

The following symptoms and signs may occur in arsine poisoning: Moderate anæmia, jaundice, "bloody urine", evidence of kidney injury (weakness, marked decrease in amount of urine excreted, headache, dizziness, coma).

## 7. Poisoning due to Nitrous Fumes

**Definition.**—Poisoning due to nitrous fumes is, industrially, a disease due to a single inhalation of a mixture of certain oxides of nitrogen and is characterized by the development of severe lung irritation and is not infrequently followed by an attack of pneumonia. It is characteristic of the poisoning that the effect on the lungs is delayed by 6—18 hours following the inhalation of the fumes.

**Causative agent.**—Nitrous fumes (Synonyms: Oxides of nitrogen, nitrogen oxides).

This is a mixture of several closely related oxides of nitrogen which seldom occur separately in industry, *viz.*, nitric oxide, nitrous anhydride and nitrogen dioxide or tetra-oxide. It has a brown colour and a sweetish taste.

**Occupations involved.**—Nitrous fumes may occur adventitiously in the following occupations. (1) Acid dippers; (2) Blasters; (3) Electroplaters; (4) Engravers; (5) Etchers (metal); (6) Explosive workers; (7) Guncotton workers; (8) Jewellers; (9) Lithographers; (10) Nitric acid workers; (11) Nitocellulose makers; (12) Nitroglycerine makers; (13) Nitrous-oxide workers; (14) Photo-engravers; (15) Picklers (metal); (16) Refiners (metal); (17) Sulphuric acid workers and (18) Welders.

**Pathogenesis.**—Nitrous fumes reach the depths of the lungs by inhalation. Here they get dissolved giving rise to nitrous and nitric acids which produce the markedly irritant effect. A small portion of the nitrites formed from the nitrous acid is absorbed and this may act upon the hæmoglobin of the blood to form a small amount of methemoglobin, a modified form of oxyhæmoglobin which gives up its oxygen with great difficulty.

The gas produces severe irritation of the lining of the lung air-sacs, by virtue of the nitrates and nitrites that form when the acids are neutralised by the alkaline fluids located on the walls of the air-sacs. This severe irritation results in the secretion of excessive amounts of fluid in the lungs which appears some hours (6-18) after exposure.

**Clinical features.**—Because of the presence of the secreted fluids in the air-sacs, oxygen absorption from the lungs is impeded. The skin then becomes blue. This is followed by shortness of breath and coughing up of a frothy pink fluid. Shock may occur at this stage. Examination of the lungs will reveal the usual rales (abnormal sounds) of excessive fluid in the lung. Pneumonia very often sets in after recovery from the excessive lung fluid. Either the excessive lung fluid itself or the pneumonia may end fatally.

The effect due to the systemic absorption of the nitrite from the lungs is a minor one, and is usually marked by the lung symptoms. There may be headache, a moderate fall in blood pressure, and a small amount of methemoglobin will be formed.

**Prophylaxis.**—To prevent inhalation of nitrous fumes care must be taken to ensure that the workers are made aware of the danger. This is important because the accumulation of the gas in the air of the workroom is very often an accidental occurrence. Further, those workers who are known to have inhaled an appreciable air concentration of the gas, should

be placed under medical supervision, and should be confined to bed and receive oxygen even before the clinical effects are apparent. Such treatment will often prevent clinical illness. The maximum allowable concentration of nitrogen oxides (other than nitrous oxide) is 25 parts per million.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in "nitrous fumes" poisoning: A sense of tightness of chest, coughing of frothy pink sputum, shortness of breath, headache, weakness, blue colouration of skin of face.

## 8. Carbon Bisulphide Poisoning

**Definition.**—Carbon bisulphide poisoning in industry is a disease due to the repeated inhalation of carbon bisulphide vapour and is characterized by injury to the peripheral nerves and the central nervous system. The peripheral nervous system manifestations appear as inflammation of nerves. The central nervous system may be affected to produce mental changes, especially of the maniacal type. An acute form of poisoning, due to short periods of exposure to high concentrations, may occur, and is characterized by varying degrees of unconsciousness.

**Causative agent.**—Carbon bisulphide (Chemical symbol:  $\text{CS}_2$ ). Synonym: carbon disulphide.

It is a heavy, colourless liquid, with a rather disagreeable odour. It is highly inflammable and has an appreciably high vapour tension. Its boiling point is  $46.3^\circ\text{C}$ , its vapour being heavier than air.

**Occupations involved.**—The potential occupational sources of exposure to carbon bisulphide are:

(1) Dry cleaners (spotters); (2) Rubber and rubber cement workers and (3) Viscose rayon workers.

**Metabolism.**—Carbon bisulphide reaches the body as an inhaled vapour and is rapidly absorbed into the blood. The bulk of the solvent is changed to inorganic sulphates, probably in the liver, and is excreted as such in the urine. The remainder is removed in the expired air.

**Clinical features.**—When exposure occurs due to inhalation of a large air concentration for a brief period of time, the effect is to produce unconsciousness. A single moderate exposure may result in headache, giddiness, nausea, and vomiting.

The more important clinical features from industrial exposure are those which occur following exposure to low concentration for prolonged periods. In such cases, the effects are on the peripheral and central nervous system, to produce, respectively nerve inflammation especially of the motor nerves, and mental symptoms. The latter may manifest itself as depression or mania. Early evidences of damage to the nervous system by fumes of carbon bisulphide include visual disturbances, fatigue, loss of memory, sleeplessness, headache, loss of appetite, and symptoms of irritation of the gastro-intestinal tract.

**Prophylaxis.**—The dangers to health from fumes of carbon bisulphide are so serious that the solvent is used almost invariably in an enclosed system in industrial processes. In operations where this is not possible, a suitable substitute should be found. Early recognition of clinical effects, and consequent removal from further exposure, often result in the disappearance of many of the symptoms. The maximum allowable concentration for continued exposure is recorded as 20 parts per million of air.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in chronic carbon bisulphide poisoning: Paralysis of muscles, fatigue, loss of memory, loss of appetite, headache, symptoms of gastro-intestinal tract irritation, depression (or mania).

## 9. Benzene Poisoning, Including Poisoning By Any Of Its Homologues, Their Nitro Or Amido Derivatives Or Its Sequelæ

Under this heading may be included, besides benzene, the following homologues of benzene and the following nitro- and amido-derivatives of benzene and their homologues:

1. The industrially important homologues of benzene are toluene and xylene.
2. The nitro-derivatives of benzene and its homologues are legion and are those derivatives of benzene and its homologues which have a nitro-radical attached to one of the carbon atoms of the "ring". Only the following industrially significant nitro-derivatives will be discussed: Nitroaniline, nitrobenzene, and trinitrotoluene.
3. The amido-derivatives of benzene and its homologues are legion and are those derivatives of benzene and its homologues which have an amido-radical attached to one of the carbon atoms of the "ring". Only aniline, an amido-

derivative, will be discussed. Nitroaniline, which is both an amido- and a nitro-derivative of benzene, is discussed under nitro-derivatives of benzene.

## Benzene

**Definition.**—Benzene poisoning in industry is a disease due to the inhalation of benzene (benzol) and may become manifest in either an acute or chronic form. The acute form of benzene poisoning is due to exposure for a short period to high air concentrations of benzene, and is characterized by symptoms of drunkenness to unconsciousness, and may end fatally. The chronic form of poisoning is due to repeated exposure, over weeks or months, to low air concentrations of benzene, and is characterized by varying degrees of leukopenia (fall in white blood cells count), anemia, or thrombocytopenia (fall in platelet count), or any combination of these.

**Causative agent.**—Benzene (Chemical symbol.  $C_6H_6$ ). Synonym: benzol.

It is a light, oily liquid with a rather pleasant odour. It is highly inflammable. Benzene is an excellent solvent for rubber, oils, fats and waxes. It is a coal-tar derivative, but is also found in some petroleum oils.

**Occupations involved.**—The following occupations have a potential exposure to benzene: (1) Airplane dope workers; (2) Alcohol (denatured) workers; (3) Artificial leather workers; (4) Benzene workers; (5) Can sealers; (6) Coal tar workers; (7) Coke oven workers; (8) Degreasers; (9) Extractors (oils and fats); (10) Gas (illuminating) workers; (11) Lacquer workers; (12) Painters and paint removers; (13) Petroleum refiners; (14) Petrol blenders; (15) Pharmaceutical workers; (16) Printers; (17) Dry cleaners (spotters); (18) Electroplaters; (19) Rubber and rubber cement workers and (20) Waterproof fabric makers.

**Metabolism.**—Benzene enters the body as a vapour in the inhaled air. It is absorbed into the blood, from where it is carried to vital centres. Its solubility in lipoids (fats) results in the accumulation of appreciable amounts of benzene in fatty tissues. The bulk of inhaled benzene is excreted unchanged through the lungs. Some is changed to a phenolic compound, which then combines with sulphates in the liver, the new compound finally being excreted with the urine.

**Pathogenesis.**—In acute poisoning benzene acts on the central nervous system, by virtue of its lipid solubility. In chronic poisoning it has its effect on the blood-forming functions of the bone marrow.

**Clinical features.**—When large air concentrations of benzene are inhaled, they produce drunkenness and varying degrees of unconsciousness which may prove fatal.

In the chronic form of benzene poisoning the predominant effect is the depression of the blood-forming organs. This manifests itself in anemia, leukopenia, thrombocytopenia, or any combination of these. Examination of the blood shows a moderate to severe fall in red blood cell count and hemoglobin level, fall in the white blood cell (leucocyte) count, and, less frequently, a fall in platelet count. At this stage of the disease there is weakness, dyspnoea on mild exertion, pallor, and spontaneous bleeding from the nose or mouth and pin head to massive hemorrhages into the skin. The first sign of the disease may be the occurrence of uncontrollable hemorrhage following the extraction of a tooth. Severe infection of the throat may appear as a terminal event.

The earliest evidence of bone marrow effect in chronic benzene poisoning is the appearance of macrocytosis (increased red blood cell volume), with or without mild anemia. The formerly held concept that a fall of white blood cell count is the first sign of poisoning is no longer tenable. It appears that any of the blood cells may be damaged earliest, but that increase in the volume of the red blood cells appears early. Examination of the blood, therefore, is one of the best diagnostic procedures that will assist in arriving at a correct diagnosis.

Bone marrow examination may be of some assistance. Unfortunately, the microscopic appearance of the marrow is not as characteristic as one would wish. If it shows decreased activity, it is, of course, helpful in diagnosis; but, the bone marrow may also appear normal or show increased activity.

Leukemia (cancer of the white blood cells) as a consequence of benzene poisoning occurs occasionally.

The urine may be examined for the relative proportions of sulphates that are in the organic and in the inorganic forms. This will be of material aid in determining that very recent exposure to benzene had occurred. It does not signify that poisoning is present. Normally, in persons not so exposed, there is a ratio of inorganic to organic urinary sulphates of about 70 per cent to 30 per cent. When exposure has occurred to benzene, the ratio is reversed.

**Prophylaxis.**—Prevention of acute benzene poisoning requires careful supervision. Workers should not be allowed to enter tanks (or similar receptacles) in which benzene

might have been stored. If entry into such tanks is necessary, the tanks should first be fully steamed out, and ventilated; even after that they may still be a source of danger. The worker entering such steamed-out tanks should wear a belt securely attached to a rope, the free end of which is held by a person outside the confined space. The purpose of such an arrangement is for the man to be pulled out of the tank, should he appear to be overcome by the fumes.

In the prevention of chronic benzene poisoning, efforts are directed at the avoidance of inhalation of the fumes. Those persons who are believed to have any blood abnormality should not be permitted to work where there is a potential exposure to benzene. The maximum allowable concentration of benzene for continued exposure is probably about 25 parts per million parts of air.

(Human sketch—Loca of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in chronic benzol poisoning: Weakness, headache, pallor, pin-head to massive hemorrhages into the skin, nose-bleeds, sore throat, fever, severe anæmia, decrease of white blood cell count.

### Toluene

**Definition.**—Toluene poisoning in industry in its acute form resembles benzene poisoning (q.v.). In the chronic form toluene poisoning causes mild anæmia and liver enlargement.

**Causative agent.**—Toluene (Chemical symbol:  $C_6H_5CH_3$ ). Synonyms: toluol, methyl benzene. Commercial toluene usually contains some benzene and xylene. It is a light oily liquid with a characteristic unpleasant odour. It has solvent properties similar, but not quite equal, to that of benzene.

**Occupations involved.**—As for benzene (q.v.).

**Metabolism.**—Toluene enters the body in the same manner as benzene. It is excreted in part unchanged through the lungs. The larger part, however, is oxidized and conjugated to form hippuric acid which is then excreted in the urine.

**Clinical features.**—The acute form of poisoning is similar to that of benzene. In continued exposures to low concentrations mild anæmia may occur, as may liver enlargement. The liver enlargement appears to be a transitory phenomenon.

**Prophylaxis.**—Methods for preventing toluene poisoning are the same as those for benzene poisoning.

### Xylene

**Definition.**—Xylene poisoning in industry in its acute form resembles benzene poisoning (q.v.). There does not appear to be a chronic form of xylene poisoning.

**Causative agent.**—Xylene [Chemical symbol:  $C_6H_4(CH_3)_2$ ]. Synonyms: zylol, dimethylbenzene. Commercial xylene often contains some benzene and toluene. It is a heavy oily liquid with a characteristic unpleasant odour. It has less effective solvent properties than toluene.

**Occupations involved.**—As for benzene (q.v.).

**Metabolism.**—It enters the body in the same manner as benzene and toluene. Part is excreted by the lungs. The fate of the remainder is not known.

**Clinical features.**—As for toluene (q.v.).

**Prophylaxis.**—As for benzene poisoning.

### Aniline

**Definition.**—Aniline poisoning is an acute disease that develops as a result of a single inhalation of aniline vapour or by absorption of aniline through the skin. It is characterized by the formation of methemoglobin in the blood, resulting in headache and blueness of the skin and mucous membranes.

**Causative agent.**—Aniline (Chemical symbol:  $C_6H_5NH_2$ ). Synonyms: aminobenzene, phenylamine. Aniline is a colourless or slightly brownish heavy liquid which has a characteristic, not unpleasant odour.

**Occupations involved.**—The occupations in which there is potential exposure to aniline include the following:

(1) Explosive makers; (2) Gasoline blenders; (3) Petroleum refiners; (4) Rubber workers and (5) Shoe dyers.



**Metabolism.**—Aniline enters the body by inhalation of the vapour or by absorption of the liquid through the skin. In the body it is transformed to paranitrophenol, and this in combination with sulphates is excreted through the kidneys.

**Pathogenesis.**—The formation of methemoglobin is due to aniline and this directly is responsible for the blue colouration of the skin. The symptoms of headache, weakness, and dyspnoea are due to the lowered oxygen tension of the blood resulting from its decreased oxygen-carrying capacity.

**Clinical features.**—The earliest signs of aniline absorption is a blue appearance of the lips. At this stage no ill effects may be noticed. As the condition progresses, due to further absorption, and further methemoglobin formation, weakness develops followed by severe headache, and dyspnoea on slight exertion.

**Diagnosis.**—The blue appearance of the skin in the potentially exposed worker is generally accepted as clear evidence of the disease. Blood examination for methemoglobin, by chemical methods or by spectrography, may be performed for the purpose of clinically following the progress of the disease.

**Prophylaxis.**—To prevent poisoning by aniline all efforts should be directed to avoid inhalation of the vapours and to avoid contact of the liquid with the skin. When aniline spills on the clothing, the contaminated clothing should be removed at once, and a bath taken to remove any of the aniline that may have reached the skin.

In the treatment of methemoglobinemia, the use of oxygen-carbon dioxide inhalations and rest in bed with sedatives is advised. Glucose solution administered intravenously appears to be of benefit. The condition is usually alleviated in 24—48 hours with proper therapy. In recent years a solution of methylene blue intravenously has been recommended for treatment. Its value, and rationale, are yet to be established.

(Human sketch—Loc of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur from the methemoglobinemia which results from aniline or nitrobenzene poisoning: Blueness of lips (and of skin of face), weakness, headache, shortness of breath.

### Nitrobenzene

**Definition.**—Nitrobenzene poisoning is an acute disease that develops as a result of a single inhalation or skin absorption of nitrobenzene. It is characterized by manifestations similar to those of aniline poisoning.

**Causative agent.**—Nitrobenzene (Chemical symbol:  $C_6H_5NO_2$ ). Synonym: Oil of mirbane. It is a colourless, to light yellow, oily liquid, and has a characteristic sweetish odour. It has excellent solvent properties for many organic compounds.

**Occupations involved.**—The occupations in which there is a potential exposure to nitrobenzene are.

(1) Chemical workers; (2) Explosive makers; (3) Shoe dyers and (4) Soap (scented) makers.

**Pathogenesis.**—As for aniline (q.v.).

**Clinical features.**—As for aniline, except that nitrobenzene has a greater tendency towards the formation of methemoglobin.

**Prophylaxis.**—Although inhalation of nitrobenzene, in amounts sufficient to produce a toxic effect, cannot be ruled out, in actuality industrial poisoning normally involves skin contact with the liquid and absorption by that route. For this reason prevention mainly consists in avoiding splashes on to the skin, and education of the workers as to what should be done when such splashes occur. (See under section on "Aniline".)

### Trinitrotoluene

**Definition.**—Trinitrotoluene poisoning is a disease due to the inhalation of the dust or fumes of trinitrotoluene, or less frequently from skin absorption of the agent. It is characterized by damage to the blood, the liver and skin.

**Causative agent.**—Trinitrotoluene [Chemical symbol:  $CH_3C_6H_2(NO_2)_3$ ]. Synonyms: 1:2:4:6: trinitrotoluene, TNT. It is a yellow crystalline solid.

**Occupations involved.**—The following occupations involve a potential exposure to this agent:

Trinitrotoluene makers and Trinitrotoluene shell loaders.

**Metabolism.**—Trinitrotoluene enters the body by inhalation of the dust or fume, and less frequently through contact with the skin, and is absorbed to produce its effect elsewhere in the body. The direct skin contact may result in skin disease.

**Clinical features.**—The skin disease is a dermatitis which generally is manifest early in the course of exposure. The serious effects of exposure involve damage to the blood-forming organs and the liver. Either organ, or both, may be affected.

The blood may be affected with the appearance of moderate to severe anaemia, due to the effect on the blood-forming function of the bone marrow. Liver damage may appear in the form of acute destruction of liver cells with its attendant symptoms of fever, jaundice, and nausea and vomiting. Either form of disease may end fatally.

**Prophylaxis.**—Prevention is based on avoiding the inhalation of the dust and fumes. Skin disease is avoided by preventing skin contact with the agent, and by good personal (skin) hygiene.

(Human sketch—Locs of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in trinitrotoluene poisoning: Dermatitis, anaemia (leading to weakness and pallor), jaundice, fever, and nausea and vomiting.

## 10. Chrome Ulceration Or Its Sequelæ

**Definition.**—Chrome ulceration is an ulcerative phenomenon of either the exposed skin or of the mucosa of the nasal septum, and less frequently of the mouth, throat or trachea, and is due to the direct contact with these surfaces of the dust or mist of hexavalent compounds of chromium. The results of the nasal mucosal ulceration include perforation of the cartilaginous portion of the nasal septum. Chrome ulceration of the skin can infrequently be so severe as to involve the deeper tissues, including the bone.

**Causative agents.**—The hexavalent chromium compounds which are of industrial significance are chromic acid, potassium and sodium dichromate, zinc chromate, and lead chromate. Chromic acid is an amorphous reddish-brown solid readily soluble in water. Potassium (or sodium) dichromate is a reddish-yellow crystalline material and is readily soluble in water. Zinc chromate is a greenish-yellow powdery material; it is relatively insoluble in water. Lead chromate is a canary-yellow coloured powdery material that is relatively insoluble in water.

**Occupations involved.**—The occupations which have a potential exposure to hexavalent chromium compounds are:

(1) Chromium compound producers; (2) Chromium platers; (3) Colour (inorganic) makers; (4) Match factory workers; (5) Paint makers; (6) Photo-engravers and (7) Tannery (chrome) workers.

**Clinical features.**—The action of hexavalent chromium compounds to produce ulceration is entirely a local one, and occurs by direct contact of the dusts or mist with the linings of the mouth or nose or of the skin.

The skin ulcer usually occurs on the exposed areas, especially of the hands or forearms, although it is not unusual to find it on the feet, legs, or abdomen (at the belt line). It is often multiple. It begins at a break in the skin or at skin folds. The ulcer has a typical "punched-out" appearance with well-defined borders, and with but little, if any, inflammatory reaction about it. It may be pin-head in size to many centimeters in diameter. It may be round, or have an irregular outline. The ulcer causes but slight discomfort, unless it burrows into the deeper tissues. Even if kept clean, it heals very slowly.

Ulceration of the lining of the nose is usually limited to the mucosa overlying the cartilaginous septum, and is associated with some nasal discomfort, blood-streaked mucus, and the occurrence of the dried-black crusts. As the lining is eroded, the underlying cartilage is eaten away resulting in perforation of the septum. There is no discomfort at this stage unless the irritation of the adjacent mucosa continues. The worker may notice a whistling sound as he breathes, and he may have further crusting in his nose. The sense of smell is generally not affected.

Consideration of the chromium compounds as industrial poisons would not be complete without the mention of the recently reported high incidence of lung cancer in the chromate-producing industry in other countries. The exact manner of its production and its prevention are still to be determined. From the available evidence the lung cancer which occurs among chromate-producing plant workers does not appear significantly different from that which occurs in other persons.

**Prophylaxis.**—The prevention of chrome ulceration requires care to avoid contact of the skin and mucous membranes with the dust and mist of hexavalent chromium compounds. This is mainly an engineering problem. But, much can be done through good personal hygiene. This would include avoidance of any skin breaks and washing off any of the chromates that may accidentally fall on the skin. At the first sign of an ulcer, medical treatment should be sought. Further contact of the affected skin with chromate must be avoided.

Ulceration of the nasal lining and perforation of the nasal septum can be prevented possibly by instituting proper methods of engineering control and enforcing good personal hygiene. The application of suitable ointment to the nasal septum, several times each day, may prevent ulceration and perforation.

(Human sketch—Locci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in chrome ulceration: Skin ulcer of exposed parts, ulcer of lining of nose, perforation of cartilaginous portion of nasal septum, nose-bleeds, formation of reddish-black crusts in nose.

## 11. Anthrax

**Definition.**—Anthrax is an acute infectious disease due to the *Bacillus anthracis*, and industrially is characterized by the occurrence of the skin form of the disease, and, only rarely, by the pneumonic form.

**Causative agent.**—The microbe, *Bacillus anthracis*, which is the causative agent of the disease may exist in either of two forms, vegetative or spore. Only the vegetative form can produce disease by invading the host. Spore formation does not occur in the body, but rather develops when conditions are unfavourable for the vegetative form. The spore has marked resistance to cold, heat, and ordinary chemical disinfectants. It may remain viable for many years in soil, water, hides, hair, wool, and other animal products, until a susceptible host provides the proper environment for its germination.

**Occupations involved.**—The occupations which have a potential hazard from anthrax are:

(1) Animal handlers (2) Brush (bristle) makers; (3) Carpet (wool) makers; (4) Farmers; (5) Fur workers; (6) Tannery workers and (7) Wool sorters.

**Clinical features.**—Cutaneous anthrax, the only industrially important form of the disease, starts with the appearance of a small area of redness and slight skin elevation after 24—36 hours following the entrance of the organism through a break in the skin. A few hours later a well-formed pimple develops. If the disease is on the extremities, this stage is associated with little or none of the systemic manifestations noted later. In fact there are practically no local symptoms either and the patient pays little heed to the pimple. A few hours later the pimple enlarges in height and circumference, with an area of redness and swelling sprading out from the base. Later, numerous small blisters form in the area; the top of the pimple begins to be depressed and turns dark-brown to black. A watery discharge is present and this will show large numbers of *Bacillus anthracis* organisms.

By the time the skin lesion is well-formed there are general symptoms which may include fever (up to 103—105°F.), headache, and a feeling of sickness. Lesions of the head, neck and upper chest wall are the more serious and may be associated with severe local swelling.

**Prophylaxis.**—The prevention of industrial anthrax (cutaneous) is based on avoiding contact with potentially infective material. Protective clothing is of doubtful value in such a programme. Rather should efforts be made, whenever possible, to destroy the organisms. In the case of wool this can be accomplished by treatment with accepted concentrations of formaldehyde at certain elevated temperatures. In the case of bristles, boiling will be effective. In the case of hides, there is at present no suitable method known.

Since treatment with sulfonamides and penicillin has proved very effective in the early stages of the disease, the workers should be informed of the dangers and should be required to report any suspicious skin lesion.

## 12. Silicosis

**Definition.**—Silicosis is a scarring disease of the lungs due to the inhalation of dust containing free silica, silicon dioxide. A long period of exposure (5—20 years) is required for the development of the disease. Pathologically the disease is characterized by miliary nodular scarring, the small nodules in the later stages fusing to form larger nodules, and finally forming conglomerate (tumorous) masses. Fairly typical X-ray appearances mark out the various stages of the disease.

**Causative agent.**—Silica. (Chemical symbol:  $\text{SiO}_2$ ) Synonym: silicon dioxide.

Silica is a very hard crystalline material which occurs abundantly in nature in rocks and soil.

**Occupations involved.**—The occupations in which there is a potential exposure to free silica include the following:

(1) Abrasive makers; (2) Brick makers (refractory); (3) Foundry workers; (4) Glass mixers; (5) Grinders (metal); (6) Miners; (7) Polishers (metal); (8) Pottery workers; (9) Rock crushers; (10) Sandblasters; (11) Sanders; (12) Sand pulverizers; (13) Scouring power makers; (14) Stone dressers and (15) Tumbling barrel workers.

**Pathogenesis.**—The silica particles reach the walls of the air-sacs where they are engulfed by specialized white blood cells. Many of the particles are in this way discharged with the sputum; but, others enter the lung lymphatic stream, from where they are carried to the lymph glands. At the glands the wandering white blood cells disintegrate, leaving behind the silica particles which cause further damage. They stimulate the development of nodular bundles of scar tissue, microscopic in size; and, as more of these nodules form, they become fused to form larger nodules which eventually obstruct the normal passage of lymphatic fluid through the lymph glands.

When this occurs, the further passage of silica-laden scavenger cells to the pulmonary lymph glands occurs with difficulty. Now, new foci in the lung lymphatic vessel chain act as depots for the dust-laden cells, and nodular scarring forms at these locations also. This latter action leads to the widely scattered nodules found in the lungs at this stage.

The fusion of the nodules to each other gradually results in the appearance of large tumorous masses. It is believed by some authorities that this stage is invariably associated with tuberculosis. There is little doubt, however, that silica dust in the lungs predisposes to the onset or progression of pulmonary tuberculosis.

At any stage, but more frequently at the later stages, stretching of the air-sacs of the lungs occurs. It is likely that this phenomenon, in addition to the constricting action of silica on the bronchial tubes is the chief cause of dyspnoea in silicosis.

At any stage, but more frequently in later stages, symptoms develop. These consist of dyspnoea, either on exertion or at rest, cough, and often a sense of tightness in the chest. Physical examination reveals nothing that is typical. Some indeterminate rales (abnormal sounds in the lungs) may be found. The existence of the nodules themselves, the typical scarring of silicosis is not revealed by any special objective signs, except by chest X-ray.

The chest X-ray is fairly typical, if one can rule out such conditions as rheumatic heart disease with chronic heart failure, fungus disease of the lungs, iron dust deposition, pulmonary sarcoidosis and eosinophilic lung. It is obvious, therefore, that physical examination and a good occupational history are necessary before one can adequately interpret the chest X-ray as that of silicosis.

The chest X-rays have been classified, for purposes of recording the stage of disease, in many different ways. The classification that seems the least difficult to master is as follows: prenodular stage, first nodular stage, second nodular stage and conglomerate stage of silicosis. In the prenodular stage there is merely the appearance of a diffuse haziness throughout the lung fields. Even with a carefully recorded history of exposure, and excellent technique in the taking of the picture, such an appearance on the film cannot be definitely interpreted as that due to silicosis. In the first nodular stage, there is the appearance of millet-sized nodular shadows scattered throughout the lung fields. In the second nodular stage, these nodules are larger, and are more than one millimeter in diameter. In the conglomerate stage, tumorous masses appear in the lung fields, especially in the upper and mid-portions. Tuberculous infiltration, with or without cavitation, may be visualized at any stage of silicosis.

**Prophylaxis.**—Prevention of silicosis consists of avoidance of the inhalation of silica dust, especially those particles which are of the order of 0.3 to 5.0 microns in average diameter. This can be achieved by using any, or all, of the methods of prevention of occupational diseases discussed below.

In recent years, inhalations of a special preparation of aluminium oxide (or hydroxide) have been recommended and tried for prevention, as well as for treatment. Its efficacy is still to be proved, and this would probably require continued observations for at least 10 more years.

There is no proven therapy which will eliminate any of the pulmonary fibrosis once it is established. Symptomatic treatment, however, is useful. This may consist of inhalation, under a few millimeters of water pressure, of oxygen with an aerosol of anti-spasmodics.

(Human sketch—Loc of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in silicosis: Shortness of breath, cough, weakness, sense of constriction of chest. The chest X-ray photograph is fairly typical in this disease, if a complete occupational history is taken, and certain other lung diseases are ruled out.

### 13. Poisoning by Halogens or Halogen Derivatives of the Hydro-carbons of the Aliphatic Series

Of the halogens of significance as industrial toxic substances, only chlorine is considered. Of the "halogen derivatives of the hydro-carbons of the aliphatic series" of import from the occupational disease point of view, only trichlorethylene, carbon tetrachloride, and methyl bromide are considered.

## Chlorine

**Definition.**—Poisoning by chlorine is an acute disease of the lungs due to the inhalation of moderate amounts of chlorine gas, and is characterized by the development of excessive fluid in the lungs and pneumonia. It is characteristic of the poisoning that the effect is delayed by some hours following the inhalation of the gas.

**Causative agent.**—Chlorine (Chemical symbol: Cl). Chlorine is a gas with a greenish-yellow colour. It has a characteristically pungent disagreeable odour.

**Occupations involved.**—The following occupations have a potential exposure to chlorine gas: (1) Bleachers; (2) Bleaching-powder makers; (3) Chlorine makers; (4) Laundry workers; (5) Paper makers; (6) Sewage purification workers; (7) Soda lime makers; (8) Sodium hydroxide makers; (9) Sugar refiners and (10) Waterworks workers.

**Pathogenesis.**—Chlorine inhaled even in moderate amounts brings about its adverse effects by causing severe local irritation of the lungs.

**Clinical features.**—The earliest evidence of chlorine exposure is the occurrence of smarting of the eyes and irritation of the throat, with cough. When the exposure is severe enough to affect the lungs, there is at first a sense of mild chest "tightness". This is followed, after a few hours, by manifestations of excessive fluid in the lungs and consequent symptoms, similar to those described for "nitrous oxide" exposure (q.v.).

**Prophylaxis.**—Since industrial exposure to chlorine is almost always of an accidental nature, all efforts should be directed at educating the workers as to the nature of the hazard. Appropriate gas masks should be provided in all places where chlorine exposure may occur, and these masks should be properly maintained.

When a worker is known to have received a sufficient dose of the gas, he should be given prophylactic oxygen treatment for 8—24 hours. This is important as the oxygen treatment may prevent the delayed appearance of lung irritation.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in chlorine poisoning: A sense of tightness of chest, coughing of frothy pink sputum, shortness of breath, weakness, blue colouration of skin of face.

## Trichlorethylene

**Definition.**—Poisoning by trichlorethylene is an acute disease due to the inhalation of air containing relatively large amounts of trichlorethylene, and is characterized by a sense of drunkenness to severe unconsciousness. The rhythm of the heart may be adversely affected by such an inhalation and the result may be fatal.

**Causative agent.**—Trichlorethylene (Chemical symbol:  $C_2HCl_3$ ) Synonym: trichloroethylene.

Trichlorethylene is a light colourless liquid with a boiling point of 87°C. It has a pleasant odour. It is an excellent solvent for oils and greases. It is non-inflammable, but may decompose under high temperatures with the production of phosgene.

**Occupations involved.**—There is potential exposure to trichlorethylene in the following occupations:

(1) Degreasers; (2) Dry cleaners; (3) Paint remover handlers; (4) Pharmaceutical workers and (5) Rubber workers.

**Metabolism.**—Trichlorethylene reaches the lungs as vapour, is absorbed into the blood, and thus carried to vital centres. As with other volatile solvents, part is excreted by the lungs. A certain amount is converted to trichloroacetic acid which is excreted as such in the urine. A small portion of the absorbed trichlorethylene reaches the urine as a "volatile organic chloride".

**Clinical features.**—The earliest signs of exposure to trichlorethylene are those of drunkenness. There is a sense of well-being and some degree of incoordination. As it progresses there may be nausea and vomiting. Deep unconsciousness then occurs. Because of the sense of well-being developed in the early stages, workers occasionally breathe the vapours purposely. In this manner addiction may occur.

Death due to marked changes in heart rhythm may occur at any stage. Such cases have occurred in which there were no warning signs or symptoms.

**Prophylaxis.**—The prevention of trichlorethylene poisoning depends upon avoiding inhalation of the fumes.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in acute trichlorethylene poisoning: Sense of well-being, talkativeness, incoordination, nausea and vomiting, unconsciousness, abnormal heart rhythm.

### Carbon Tetrachloride

**Definition.**—Poisoning by carbon tetrachloride is, industrially, a disease due to the inhalation of vapours of carbon tetrachloride, and is characterized by damage to kidney, liver or both organs, and which may end fatally.

**Causative agent.**—Carbon tetrachloride (Chemical symbol:  $\text{CCl}_4$ ) Synonyms: tetrachloromethane.

Carbon tetrachloride is a heavy colourless oily liquid with a characteristic disagreeable odour. It is an excellent solvent for oils, greases, paraffins, and rubber. It is non-inflammable, but will decompose under high temperatures with the possible formation of phosgene.

**Occupations involved.**—There is potential exposure to carbon tetrachloride in the following occupations:—

(1) Airplane dope workers; (2) Degreasers; (3) Dry cleaners; (4) Fire extinguisher refillers; (5) Paint remover handlers; (6) Pharmaceutical workers; (7) Printers; (8) Rubber and rubber cement workers and (9) Waterproof fabric makers.

**Metabolism.**—Carbon tetrachloride reaches the body by inhalation of its vapours. Further information on its metabolism is lacking.

**Pathogenesis.**—In chronic poisoning, and following acute poisoning, it produces its effects through damage to the liver and kidneys primarily. In the latter, its action is essentially on portions of the tubules (the urine collecting system), rather than upon the glomeruli (the urine secreting system). In the liver it produces destruction of the cells. In acute exposure to high concentrations its effect is mainly to produce unconsciousness.

**Clinical features.**—The industrial disease due to carbon tetrachloride is usually one that involves the liver or kidneys or both. In the liver disease, jaundice and other symptoms associated with destruction of liver cells occur. This may result fatally; or, if recovery occurs from the acute phase, liver scarring may develop. When kidney involvement occurs, albumen will appear in the urine and there will be retention of products of normal body metabolism. Swelling of the face and extremities may develop. Exposures to relatively low concentrations manifest themselves in loss of appetite, nausea and vomiting, and sleeplessness, without any damage to liver or kidney becoming apparent.

**Prophylaxis.**—Prevention of poisoning by carbon tetrachloride will depend upon the avoidance of the inhalation of its vapours. This is accomplished by engineering methods. Medical control involves pre-employment examination to avoid employing those individuals who already have liver or kidney disease, or who may have a tendency to develop such conditions. In view of a tendency toward development of liver disease in chronic alcoholics, such persons should not be permitted to work with carbon tetrachloride.

(Human sketch—Locci of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in chronic carbon tetrachloride poisoning. Weakness, nausea and vomiting, jaundice, fever, swelling of face and extremities, sleepiness coma.

### Methyl Bromide

**Definition.**—Poisoning by methyl bromide in industry is a disease due to the inhalation of methyl bromide vapour and is characterized by the appearance of symptoms of central nervous system irritation, including mania and convulsions.

**Causative agent.**—Methyl bromide (Chemical symbol:  $\text{CH}_3\text{Br}$ ).

Methyl bromide is a colourless liquid with a relatively high vapour tension. Its boiling point  $4.6^\circ\text{C}$ . It is non-inflammable. It has practically no odour.

**Occupations involved.**—There is a potential exposure to methyl bromide in the following occupations:

(1) Fire extinguisher refillers; (2) Insect exterminators; (3) Pharmaceutical workers.

**Metabolism.**—Methyl bromide reaches the body on inhalation of the vapour. From the lungs it is carried to vital centres in the brain to exert its severe effect which is possibly bromide-like in nature. No further information on its metabolism is available.

**Clinical features.**—Following exposure to methyl bromide, the eyes appear "blood-shot", and some hours later irritation of the brain occurs. The latter becomes manifest in the appearance of headache, dizziness, mental excitement, and convulsions. Mania may develop. Fever is a common finding.

**Prophylaxis.**—To prevent poisoning by methyl bromide one must avoid its inhalation. This is primarily an engineering problem. The maximum allowable concentration is 20 parts per million of air.

(Human sketch—Loca of Clinical Manifestations not reproduced.)

The following symptoms and signs may occur in methyl bromide poisoning: Congestion of conjunctivæ, headache, dizziness, mental excitement, convulsions, fever, coma.

#### 14. Pathological Manifestations Due To (a) Radium Or Other Radio-active Substances (b) X-Rays

**Definition.**—The pathological manifestations due to radium or other radio-active substances and of X-rays depend, in part, on the specific radio-active substance and the radio-activity involved. According to one theory of its action, the activity of all ionizing radiation is to produce, by the ionization process, cellular tissue changes. In the case of excessive exposure to X-rays, one may develop diffuse lung scarring, lung cancer, destruction of skin, skin cancer, damage to the bone marrow, leukemia (cancer of the white blood cells), loss of function of the testicles or ovaries or destruction of other organs. In the case of the radio-active elements, the action will depend upon whether the material acts on the body from the outside, its rays (or particles) acting on or through the skin, or from inside the body, the rays having relatively short distances to penetrate to affect vital organs or tissues. This is of significance in regard to the kind of tissue effect which may be expected since the various ionizing radiations do not all have the same tissue penetrating powers. Thus, the alpha particle is the least able to penetrate; the beta ray is only somewhat more penetrating; and, the gamma ray has the strongest penetrating power of the three. The neutron is even more penetrative than any of the others.

Some of the radio-active isotopes by virtue of their metabolism may be concentrated in or near vital tissues and may exert their effect locally. In this manner certain radium compounds by being deposited in bone result in constant bombardment of that organ by ionizing radiation, and thus damage the vital blood-forming tissues in the bone marrow or even the bone itself. In the latter instance secondary bone infection or bone cancer may result.

**Causative agents.**—The agents which can give rise to ionizing radiation include X-ray machines and chemical sources of gamma rays, used to detect defects in manufactured metal parts, radium compounds or other radio-active isotopes used in luminous dial painting, and the thorium series of radio-active materials present in the monazite sands. These are sources of radio-activity of varying nature, alpha, beta, gamma rays, neutrons, or X-rays, whose penetrating and tissue ionizing effect will differ dependent in part on the energy contained in the radio-activity in question.

**Occupations involved.**—There is a potential exposure to radio-active isotopes or to ionizing radiation in the following occupations:

(1) Dentists; (2) Incandescent mantle makers; (3) Industrial radiographers; (4) Laboratory workers using radio-active agents; (5) Medical and ancillary personnel; (6) Monazite sand workers and (7) Radio-active paint makers and users.

**Metabolism.**—The direct rays of radio-active materials exert their effects and thus their energy is expended. In the case of radio-active materials which enter the body either by inhalation as a dust (radium compounds) or as a gas (radon), the action may be local in the lungs, or by the absorption and transfer of the material to other sites, the radio-activity will exert its influence at those sites. Many such radio-active isotopes are carried to bones, and may even be excreted by the kidneys unchanged.

Radium, although it may be deposited in bones, continues to disintegrate, as do other radio-active materials. With the disintegration of radium, radon gas is produced, and the gas is excreted in the expired air.

**Clinical features.**—The clinical symptoms will, of course, depend upon the tissue which is the target. In general, however, in cases of exposure there is always (except in overwhelming doses) a period of latency before symptoms become manifest.

The earliest change is said to be a transient appearance of lymphocytosis (increase of certain white blood cells), rarely observed clinically. The blood effects that are generally found include anæmia and fall in the white blood cell count of varying severity, and are due to depression of the blood-forming function of the bone marrow. Leukemia may occur.

Affected bone may be destroyed or may even show cancerous changes. Cancerous changes may also occur of the skin or internal organs. In the case of the skin, there is usually concomitant evidence of other destructive changes, which include loss of hair, thickening, fissuring and dermatitis.

**Prophylaxis.**—Preventive measures against the effects of radio-activity will vary dependent upon the agent. In the case of X-rays, shielding by appropriate thickness of material (lead, cement, steel) will be effective. In the case of some radio-active elements, avoidance of direct contact with the skin, and avoidance of swallowing or inhalation must be ensured. The use of testing equipment to determine exposure is a vast subject and reference should be made to the extensive literature.

Medical control is part of the programme of prevention. This includes careful periodic medical examinations and thorough blood studies.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

## 15. Primary Epitheliomatous Cancer Of The Skin

**Definition.**—"Primary epitheliomatous cancer of the skin" is a disease which differs but little, when due to occupation, from the same disease which may otherwise occur. In industrial skin cancers, multiplicity of primary growths may occasionally be found. The growth (or growths) are usually found on areas of the skin directly exposed to the known or suspected offending agent.

**Causative agents.**—Such known agents are petroleum oil and some of its derivatives, tar, pitch, creosote, X-rays (and other sources of ionizing radiation), arsenic and the ultra-violet rays of the sun.

**Occupations involved.**—The potentially hazardous occupations in which there may be exposure to the various causative agents are as follows:

1. Petroleum oil and its derivatives:
  - (1) Automobile repairers; (2) Engineering works operatives; (3) Diesel engine operators;
- (4) Oil field workers and (5) Petroleum refiners.
2. Tar and pitch:
  - (1) Battery (dry) workers; (2) Pitch workers; (3) Coal tar workers; (4) Road repairers;
- (5) Coke oven workers; (6) Tar workers; (7) Gas (illuminating) workers; (8) Rope workers;
- (9) Paint (tar) workers and (10) Wood preservers.
3. Creosote:
 

Pharmaceutical workers and Wood preservative workers.
4. X-rays (and other sources of ionizing radiation):
 

See under section, entitled "Pathological manifestations due to (a) radium or other radio-active substances, (b) X-rays".
5. Arsenical compounds:
 

See under section entitled "Arsenic poisoning or its sequelæ".
6. Ultraviolet rays of the sun:
 

Farmers and Seamen.

**Clinical features.**—Skin cancer due to the causative agents usually occurs on the areas having the largest degree of contact with the offending agent. It may take the form of basal or squamous cell type, and is occasionally multiple. It often occurs before the "normal" cancer age, and may be associated with such concomitant skin lesions as keratosis and warts. Its degree of malignancy is variable, and may spread to distant organs in the squamous cell type of the disease.

**Prophylaxis.**—Skin contact with the offending agent must be kept to a minimum. Cleanliness, in the case of the chemical agents, is the most effective method. In the case of radiation, the use of protective shielding is effective.

(Human sketch—Loci of Clinical Manifestations not reproduced.)

The symptoms and signs of primary epitheliomatous cancer of the skin may include the following: A skin sore which heals very slowly or not at all, a painless localized swelling of the skin.

## 16. Toxic Anæmia

**Definition.**—"Toxic anæmia" is a disease characterized by any significant decrease in either the circulating red blood cells or haemoglobin, or both, and is due to exposure to certain toxic substances in industry. The industrially important substances or conditions which can produce such anæmia are benzene, X-rays, radio-active materials, arsenic and its compounds, and lead and its compounds. These agents have been discussed earlier.



## 17. Toxic Jaundice

**Definition.**—"Toxic jaundice" is a disease characterized by the appearance of the symptom, jaundice (a yellow discolouration of the eyes and the skin), and is due to the exposure to certain toxic substances in industry. The industrially important substances which can produce jaundice include carbon tetrachloride, the chlorinated naphthalenes and chlorinated diphenyls, manganese compounds, trinitrotoluene, tetryl, and arsine.

**Causative agents.**—Carbon tetrachloride, the chlorinated naphthalenes and chlorinated diphenyls, trinitrotoluene, and tetryl may produce jaundice by virtue of the severe liver disease they may produce. The others, except arsine, may result in jaundice by virtue of the scarring of the liver which they may cause. Arsine as well as trinitrotoluene may cause jaundice by their destructive effect on the circulating red blood cells.

**Occupations involved.**—The potentially hazardous occupations in which there may be exposure to the various causative agents which may result in toxic jaundice are:

1. Carbon tetrachloride:

See in section, entitled "Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series".

2. Chlorinated naphthalenes and diphenyls:

(1) Cable (electric) makers; (2) Electrical (transformer) makers; (3) Electrical condenser makers and (4) Wire insulator makers.

3. Manganese compounds:

See in section, entitled 'Manganese poisoning or its sequelæ'.

4. Trinitrotoluene and tetryl:

Explosive makers

5. Arsine:

See in section, entitled "Arsenic poisoning or its sequelæ".

Since, of these causative agents, only the chlorinated naphthalenes and diphenyls have not been considered earlier, discussion at this point will be limited to these substances.

**Clinical features.**—The chlorinated naphthalenes and diphenyls may produce their effect on the liver on inhalation as dust or fume. They produce severe destruction of liver cells which may end fatally. Associated with the liver disease will often be found acne due to skin contact with the agent. The acne is characterized by the marked incidence of "black-heads" and by its location on the forearms, abdomen and thighs, and less frequently on the face and shoulders.

## 18. Compressed Air Illness Or Its Sequelæ<sup>4</sup>

**Definition.**—Compressed air illness consists of a group of symptom complexes which occurs as a result of inadequate decompression carried out on those persons who work under increased atmospheric pressures either in caissons or in diving gear. The symptom complexes may be either ear "block" or the "bends". In the case of ear "block", damage may occur to the ear drum or to the middle ear. In the case of the "bends" there may be severe pain in the abdomen, the joints, or the muscles, due to the sudden release of pressure. A result of repeated sub-clinical or clinical compressed air illness is the development, after many years, of bone destruction, especially of the bones of the hip joints.

**Occupations involved.**—The occupations which may potentially expose the workers to the possibility of being affected with compressed air illness are:

(1) Caisson workers; (2) Divers and (3) Tunnel workers.

**Pathogenesis.**—The increased atmospheric pressures under which the exposed individuals must work, and then return to normal pressures, can produce illness by virtue either of the mechanical effect of the changed pressures or by the effect of these pressure changes on the air gases in solution in the body. In the first instance, the changing pressures can damage the middle ear or the ear drum if there is any obstruction to the equalization of the pressure on both sides of the ear drum. In this manner there may be stretching of the ear drum, rupture of the drum, hæmorrhage in the middle ear, or displacement of the small bones of the middle ear. Less frequently are there manifestations of a similar physical effect upon the nasal sinuses.

The effect of sudden release of the air gases from solution is generally the more serious. Under normal atmospheric pressure, the blood liquids, and thus the tissue-bathing fluids, absorb the inert air-gas, nitrogen, according to its partial pressure of about 80% of the total atmospheric pressure. When the atmospheric pressure is raised as it must be, for

<sup>4</sup> Not included as a notifiable disease in the Factories Act, 1948, but listed as compensable in Schedule III of the Workmen's Compensation Act, 1923.

divers and caisson workers, partial pressure of nitrogen in the air rises, and so its solubility in the tissue fluids increases proportionately. On arrival at the surface there is a reduction of the atmospheric pressure to normal levels again. This excess of nitrogen is again released to conform to the new pressure. If the lowering of pressure to normal is done too rapidly, the nitrogen is released too fast for the blood to be able to absorb it and carry it to the lungs for discharge; then, nitrogen gas bubbles are released in the tissues with destructive effect.

**Clinical features.**—The clinical features in ear "block" include pain in the ear, loss of hearing, and bleeding from the ear canal. In the "bends", which is due to the solution of the gases, and the later appearance of nitrogen gas bubbles in tissues, the symptoms will vary dependent upon the point of action. Muscle and joint pains may be severe. Abdominal pains may be so severe as to cause the patient to bend over to try to obtain relief. Brain involvement may lead to local damage or even death.

In caisson workers and divers there may develop after many years, destruction of the bones at the large joints. The hip joint is especially likely to be involved.

**Prophylaxis.**—In the prevention of compressed air illness, careful attention should be paid to the following: (1) limitation of the number of hours that persons may work under compressed air of different magnitudes; (2) carrying out of the decompression procedure as slowly as possible; (3) easy availability of the decompression chamber for workers, who become ill away from the job site; (4) careful supervision of the health of the workers.

Mention may be made of the use of helium and oxygen inhalations for prevention and treatment of some of the clinical symptoms.

(Human sketch—Locs of Clinical Manifestations not reproduced.)

## Principles of Occupational Disease Prevention

There is enough information now available on occupational diseases that one can state with confidence that all such diseases are preventable. Their prevention requires recognition of two factors, namely (1) that the presence of potentially toxic substances in certain industrial occupations can produce disease, and (2) that the exposure level of the particular noxious agent is approaching the danger point. Very often it is the physician who is the first person to recognize that either or both the factors exist. It is, therefore, his moral responsibility to inform the authority concerned of the situation so that adequate steps may be taken for prevention. Should the physician attend a case of illness incident to occupation, his duty is obvious.

In the prevention of the diseases both engineering and medical methods of control are used. By far the more important are the engineering methods of control. The following are certain basic principles for minimizing industrial toxic exposures: (1) substitution of a relatively safe material for the more hazardous substance; (2) use of enclosed processes; (3) use of wet methods; (4) ventilation, either local exhaust or general ventilation. The use of personal protective equipment, although not strictly an engineering method of control, may sometimes be the only method of protection feasible.

The substitution of a relatively safe for an unsafe material in industry is feasible only in certain operations, and requires an understanding of the degree of health hazard as well as of the industrial process involved. Thus, for example, benzol, a very useful and inexpensive solvent requires elaborate control measures in view of the high toxicity of its vapour. It is, therefore, best replaced by other solvents, such as toluene, which, though they may not be so efficient from the industrial point of view, obviate the necessity for installing elaborate system of ventilation. A second instance of the substitution principle is that of the replacement of sand by steel-shot in blasting (cleaning) operations in foundries. Sometimes substitution is a legal requirement, as with the legal elimination of yellow phosphorus from the match industry, and its substitution by the safe sesquisulphide of phosphorus.

The use of enclosed processes is especially useful in the handling of highly toxic materials. Further, in the chemical manufacturing industries this is often the only suitable method for the handling of the many toxic agents used. Thus, a closed system of piping, tanks and reaction vessels confines the potentially toxic material, so that practically none of it may enter the air of the workroom. Isolation of certain dangerous operations to a limited area of the plant, by suitable walls and doors, is a modified form of "enclosure" since it serves to limit the possibility of exposure to a relatively small number of persons by preventing the noxious material from circulating in the air of all the work areas in the plant.

The use of wet methods is limited to those operations in which dust of certain types is generated. It is further of value when the dusts reach the flooring from which they may be stirred up into the workroom air. Wetting the floors in foundries and in storage

battery plants is thus very useful in preventing the dissemination into the air of the noxious agents (silica and lead dust, respectively). The use of wet drilling of rock, in which water is constantly being discharged on the surface being worked, is very effective in reducing the health hazards from the dust, for it is wetted as it is formed, and thus falls to the ground and is washed away.

The use of local exhaust implies that the dust, fume, gas, vapour, or mist will be removed at its point of generation. It is generally more effective and more economical than is general ventilation. Local exhaust ventilation requires not only a knowledge of ventilation principles but also an understanding of the particular industrial process to which the local exhaust is to be applied. One common example of local exhaust ventilation is the use of an appropriately constructed hood on grinding wheels, the hood being connected by piping to a dust collecting bag or box.

General ventilation is the least effective method of preventing occupational diseases due to dust, fumes, gases, vapours and mists. However, it is used when other methods are not feasible. In this method fresh air is introduced into the workrooms in quantities sufficient to dilute the toxic agent down to a safe level.

The use of personal protective equipment is the last method to be considered, and, although it is very useful in particular cases, reliance should rather be placed on one or more of the above four methods. In general, workes are loathe to use the personal protective equipment provided to them for it impedes their work. Too often the personal protective equipment is not properly maintained. Except in certain special circumstances, personal protective respiratory equipment (masks) should be used only in emergencies and that too for relatively short periods of time.

Respiratory tract protection is provided by the use of suitable mechanisms worn by the worker to prevent (or reduce) the inhalation of the toxic agent. These may be air (or oxygen) suppliers, in which case the worker breathes none of the workroom air. A second type embodies the principle of air cleaning, in which there is a filter arrangement to remove the noxious agent, allowing the cleansed workroom air to reach the workers' lungs. The air cleaning type of respirator may be made suitable for gases, vapours, or dusts, and depends for its effectiveness on the absorbing medium or nature of the filter. These respirators (masks) are generally made for specific substances, or groups of substances, and are labelled to indicate for which type of material they are effective.

The respirator must be worn properly, or it is of no value. It must fit well and must not introduce excessive resistance to the respiratory effort. Changing of the filter cartridge, or the filtering cloth or paper, must be done periodically to maintain its effectiveness.

The purpose of protective clothing is to reduce the possibility of contact between the noxious agent and the skin. The protection of the skin will result in avoidance of dermatoses and possibly absorption of the agent. Protective clothing may include gloves, shirts and trousers, aprons and sleeves. The use of special shoes, head dress, and goggles for the prevention of accidents is not considered here.

Gloves may be of cotton or impervious materials. The impervious type of glove may be made of natural rubber, synthetic rubber, or synthetic plastics. The type chosen will depend upon the nature of the noxious agent that is to be handled.

Shirts and trousers or overalls should be provided in those industrial operations in which there is danger to the skin or danger from skin absorption of a noxious material.

Aprons are usually made of a material that is impervious to the potentially noxious agent. Similarly, in some occupations, impervious sleeves need to be provided, to prevent contact of the skin of the forearms with the potentially dangerous material. Where air-impervious sleeves, such as those made of rubber or plastic-impregnated cotton are used, provision should be made for the aeration of the skin of the forearms. This is accomplished by having the sleeve perforated along the side (usually the anterior aspect of the forearm) which does not come into contact with the noxious agent.

For the present purposes, skin barrier creams may be considered as protective clothing, since they coat the skin with a bland material, and this prevents skin contact with the noxious agent. The usefulness of barrier creams to prevent dermatoses is well established. But, there is no universally applicable type of cream; for different types of noxious agents, different types of creams must be used. Thus, if the noxious agent used in the process is a solvent, a cream which is relatively insoluble in that particular solvent will be most effective.

Finally, a brief mention may be made about washing facilities in industrial plants. These should be ample to allow all the workers to use them before the mid-shift meal time and before leaving the place of work at the end of the shift. Washing will remove the noxious agent from the skin thus preventing its continued irritating action and, further, will eliminate the possibility of swallowing with food any of the material that may be remaining on the hands.

## APPENDIX

To be filled in by the Chief Inspector.

No. of case.....

Remarks.....

### Notice of Poisoning or Disease<sup>5</sup>

Factory	1. Name of Factory .....
Particulars	2. Address of Factory .....
	3. Address of office or private residence of occupier .....
Person Affected	4. Nature of Industry .....
	5. Name and Works Number of Patient .....
	6. Address of Patient .....
	7. Sex and Age of Patient .....
	8. Precise occupation of Patient .....
	9. Nature of Poisoning or Disease from which patient is suffering .....
General Particulars	10. Has the case been reported to the Certifying Surgeon .....

Signature of Factory Manager.....

Dated.....

<sup>5</sup> From the Model Rules under the Factories Act, 1948, circulated to State Governments.

## LABOUR OFFICERS (CENTRAL POOL) RECRUITMENT AND CONDITIONS OF SERVICE RULES, 1951

### Arrangement of Paragraphs

1. Short title and extent.
2. Definitions.
3. Number of Labour Officers.
4. Recruitment.
5. Qualifications.
- 5A. Disqualifications for appointment.
6. Age.
7. Scale of pay and status.
8. Leave, travelling allowance, medical attendance, pension, provident fund.
9. Conduct and Discipline.
10. Postings and Transfers.
11. Duties.

## LABOUR OFFICERS (CENTRAL POOL) RECRUITMENT AND CONDITIONS OF SERVICE RULES, 1951<sup>1</sup>

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules. They shall come into force with effect from the 20th November, 1951:—

1. (1) These rules may be called Labour Officers (Central Pool) Recruitment and Conditions of Service Rules, 1951.

(2) These rules shall apply to all Labour Officers included in the Pool.

(3) The Pool shall, to start with, consist of all Labour Officers who are required to perform the duties specified in rule 11 in any undertaking except the Railways whether such officers are designated as Labour Officers, Labour Welfare Officers, Civilian Labour Officers or by any other name and whether they are appointed under a statute or otherwise.

2. **Definitions.**—In these Rules unless there is anything repugnant in the subject or context—

(1) "Government or Government of India" means the Government of India in the Ministry of Labour.

(2) "Ministry concerned" means a Ministry of the Central Government and shall include a Head of a Department subordinate thereto possessing appropriate powers which exercises control over an undertaking in which a Labour Officer is employed.

(3) "Undertaking" means a Central undertaking such as a Defence Installation, a Posts and Telegraphs Circle, Central Public Works Department and a Government factory where one or more Labour Officers are employed for performing duties specified in rule 11.

(4) "Worker" means any person employed in any undertaking directly or through any agency and for whose welfare the Central Government is responsible by statute or otherwise.

3. **Number of Labour Officers.**—(1) In every undertaking where five hundred or more workers are ordinarily employed there shall be appointed at least one Labour Officer: provided that, when the number of workers exceed two thousand one Labour Officer shall be appointed for every two thousand workers or a fraction thereof.

(2) Ordinarily no Labour Officer should work for more than 3 years under a Ministry concerned at one stretch.

4. **Recruitment.**—(1) Recruitment shall be made by the Government of India through the Union Public Service Commission.

**NOTE.**—In case of short vacancies where recruitment is permissible without consultation with the Union Public Service Commission, the Ministry of Labour may appoint a qualified person to such vacancy provided that where a suitable candidate selected by the Union Public Service Commission is available, he should normally be so appointed.

(2) Labour Officers shall be liable to be on probation for a period of one year which may be extended at the discretion of the Government for such period as it may think fit subject to a maximum of six months.

(3) During the period of probation a Labour Officer may be required to pass such examination or examinations as the Government may prescribe.

<sup>1</sup> These Rules were published under Ministry of Labour Notification No. LWI-47(4)/46 dated the 20th November 1951. Under Section 49(2) of the Factories Act, 1948, the State Governments prescribe the duties, qualifications and conditions of service of Welfare Officers.

(4) If, in the opinion of the Government, the work or conduct of the Labour Officer on probation is unsatisfactory or shows that he is unlikely to prove efficient, the Government may discharge him after giving him a reasonable opportunity of showing cause against such action, or may extend the period of probation as in sub-rule (2) above.

(5) On the conclusion of the period of probation, a Labour Officer may be confirmed provided a permanent vacancy is available for such confirmation. In other cases, successful conclusion of the period of probation will entitle an officer to further retention in service, subject to availability of a post.

### 5. Qualifications.—

(1) *Essential*.—Candidates must be Graduates of one of the recognised Universities preferably in one of the Social Sciences such as economics, commerce and sociology.

NOTE.—Candidates selected as Labour Officers may be required to be conversant in one principal local language of their jurisdictions within a reasonable period of time.

(2) *Desirable*.—Preference will be given to candidates who have successfully undergone a recognised course of training in social work in such institutions as the Government may prescribe from time to time.

NOTE.—In the case of candidates who have not undergone a recognised course of training, it will be a condition of appointment that such candidates shall be liable to be deputed for training for about six months and their continued employment will be subject to successful conclusion of training. During the period of training, candidate would be entitled to draw 2/3rd of that pay.

(3) Preference will also be given to candidates with adequate experience of labour welfare work in organisations employing a substantial labour force and candidates with experience of other social and administrative work.

<sup>2</sup>[5A. **Disqualifications for appointment**.—No person who has more than one wife living shall be eligible for appointment as Labour Officer in the Central Pool:

Provided that the Government of India may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this rule.]

6. **Age**.—Candidates should be between 25 and 40 years of age. Upper age-limit may be relaxed in the case of permanent Government servants and Scheduled Castes and Scheduled Tribes candidates in accordance with the instructions issued by the Ministry of Home Affairs from time to time.

<sup>3</sup>[6A. In exceptional cases the Union Public Service Commission may, on the recommendations of the Central Government or a State Government, treat as a qualified candidate, a candidate, who though he has not all or any of the qualifications prescribed in rules 5 and 6, has passed examinations conducted by other institutions of a standard which in the opinion of the Commission justifies his admission.

6B. The decision of the Union Public Service Commission whether a candidate does, or does not, satisfy any of the requirements of rules 5 and 6 (including special qualifications, if any, prescribed under rule 5) shall be final].

7. **Scale of pay and status**.—(1) The scale of pay of a Labour Officer shall be Rs. 275—25—500—EB—30—650—EB—30—800.

<sup>2</sup> Inserted by Notification No. S.R.O. 937 dated the 21st April 1955.

<sup>3</sup> Rules 6A & 6B inserted by Notification No. LWI-47(2)53 dated the 14th August, 1953.

(2) Higher initial pay may be allowed, at the discretion of the Government, to candidates with exceptional qualifications and/or previous experience.

(3) The officers will be Class II Officers with gazetted status.

**8. Leave, travelling allowance, medical attendance, pension, provident fund.—**Labour Officers shall be governed in respect of leave, travelling allowance, medical attendance, pension, provident fund and other conditions of service not provided for in these rules, by the same rules as may, for the time being, be applicable to Class II Officers of the Central Government generally.

**9. Conduct and Discipline.—**(1) In day-to-day administrative and disciplinary matters, Labour Officers will be under the immediate control of the Head of the Establishment and the Ministry concerned to which they are posted.

(2) In the matter of disciplinary procedure, rights of appeal, etc., Labour Officers shall be governed generally by the Civil Services (Classification, Control and Appeal) Rules as applicable to Central Service Class II Officers.

(3) The power to remove or dismiss a Labour Officer subject to these rules shall not be exercised by any authority other than the Ministry of Labour. The Ministry concerned shall in a case where it considers that the punishment of removal or dismissal should be imposed, complete the enquiry and revert the officer concerned to the Ministry of Labour for such action as that Ministry may consider necessary.

(4) The Ministry concerned shall consult the Ministry of Labour before imposing any lesser penalty (except suspension) and in case of suspension shall report forthwith to the Ministry of Labour the circumstances leading to the imposition of that penalty.

**10. Postings and Transfers.—**Postings of Labour Officers and their transfers between undertakings under the control of different Ministries shall be regulated by the Ministry of Labour in consultation with the Ministries concerned. Transfers between undertakings under the control of the same Ministry shall be regulated by the Ministry concerned.

**11. Duties.—**The duties of Labour Officers shall be as follows:—

- (i) to establish contacts and hold consultations with a view to maintaining harmonious relations between the management of the undertaking and workers;
- (ii) to bring to the notice of the management of the undertaking the grievances of workers, individual as well as collective, with a view to securing their expeditious redress and to act as a negotiating officer with trade unions;
- (iii) to study and understand the point of view of labour in order to help the management of the undertaking to shape and formulate labour policies and to interpret these policies to the workers in a language they can understand;
- (iv) to watch industrial relations with a view to using his influence in the event of a dispute arising between the management of the undertaking and workers and to help to bring about a settlement by conciliation and arbitration;
- (v) to deal with wage and employment matters by joint consultations with the management of the undertaking and workers' representative bodies;
- (vi) to exercise a restraining influence over workers going on illegal strikes and over managements declaring illegal lockouts, and to help in preventing anti-social activities;

- (vii) to maintain a neutral attitude during legal strikes or lockouts and to help in bringing about a peaceful settlement;
- (viii) to ensure fulfilment on the part of the management of the undertaking of obligations, statutory or otherwise, concerning the application of provisions of the Factories Act, 1948 and the rules made thereunder, and to establish liaison with the Factory Inspector and the Medical Services concerning medical examinations of employees, health records, supervision of hazardous jobs, sick visiting and convalescence, accident prevention and supervision of safety committees, systematic plant inspection, safety education, investigation of accidents, maternity benefits and workmen's compensation;
- (ix) to promote relations between management of the undertaking and workers which will ensure productive efficiency as well as amelioration in the working conditions and to help workers to adjust and adapt themselves to their working environments;
- (x) to encourage the formation of Works and Joint Production Committees, Co-operative Societies and Safety-First and Welfare Committees, and to supervise their work;
- (xi) to secure provision of amenities, such as canteens, shelters for rest, creches, adequate latrine facilities, drinking water, sickness and benevolent scheme payments, pension and superannuation funds, gratuity payments, granting of loans, and legal advice to workers;
- (xii) to help the management of the undertaking in regulating the grant of leave with wages and explain to the workers the provisions relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of application for grant of leave for regulating authorised absence;
- (xiii) to secure welfare provisions, such as housing facilities, food stuffs, social and recreational facilities, sanitation, advice on individual personnel problems and education of children;
- (xiv) to advise the management of the undertaking on questions relating to training of new starters, apprentices, workers on transfer and promotion, instructors and supervisors, supervision and control of notice-board and information bulletins to further education of workers and to encourage their attendance at Technical Institutes;
- (xv) to suggest measures which will serve to raise the standard of living of workers and in general promote their well-being.

## COTTON GINNING AND PRESSING FACTORIES ACT, 1925 (XII OF 1925)

### Statement of Objects and Reasons<sup>1</sup>

The Indian Cotton Committee which was appointed in 1917, in Chapter XVI of their Report recommended certain measures, including the licensing of cotton ginning and pressing factories to prevent such malpractices as damping mixing and adulteration which are injurious to the quality and reputation of Indian cotton. The recommendations of the Committee, however, involved an excessive amount of official interference. The object of the present Bill is to put the trade in a position to protect itself by providing for the marking of bales and the record of ownership, and by providing further that unmarked bales are not tenderable in fulfilment of contract, if marked bales are demanded by the purchaser.

The Bill also makes provision for the maintenance of registers for statistical returns, for the use of correct scales and weights, and for the structural improvement of ginning and pressing factories. The Bill is based on the recommendations of the Indian Central Cotton Committee, and is supplementary to the Indian Cotton Cess Act, 1923.

<sup>1</sup> Gazette of India, 1924, Part V, page 115.



# COTTON GINNING AND PRESSING FACTORIES ACT, 1925 (XII OF 1925)

## Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Maintenance of registers.
4. Making of bales.
5. Returns.
- 5A. Returns from cotton ginning factories.
6. Scales and weights.
7. Liability of lessee as owner.
8. Liability on transfer of ownership.
9. Structural requirements for factories.
10. Liability of officers of a company.
11. Cognizance of offences.
12. Power of the Central Government to make rules.
13. Power of the State Government to make rules.
14. Power to reject unmarked bales in fulfilment of contracts.
15. Protection for acts done under Act.

## COTTON GINNING AND PRESSING FACTORIES ACT, 1925 (XII OF 1925)<sup>1</sup>

*An Act to provide for the better regulation of cotton ginning and cotton pressing factories.*

[18th March, 1925.]

Whereas it is expedient to provide for the better regulation of cotton ginning and cotton pressing factories;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925.

<sup>2</sup>[(2) It extends to the whole of India, except <sup>3</sup>[the State of Jammu and Kashmir].

(3) It shall come into force on such <sup>4</sup>date as the <sup>5</sup>[Central Government] may, by notification in the <sup>6</sup>[Official Gazette], appoint.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “bale” means any pressed package of cotton of whatever size or density;

(b) “cotton” means ginned or unginned cotton, or cotton waste;

(c) “cotton ginning factory” means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V., p. 115, and for Report of Select Committee, see Gazette of India, 1925, Pt. V, p. 59.

The Act has been amended in its application to:—

(1) the State of Bombay by Bom. Acts 4 of 1936 and 20 of 1938;

(2) the C.P. by C.P. Act 24 of 1936 and Madhya Pradesh by M.P. Acts 33 of 1939, 1 of 1942, 13 of 1947 and 47 of 1947;

(3) the State of Punjab by Punjab Act 12 of 1941, and

(4) Uttar Pradesh by U.P. Act 15 of 1941.

<sup>2</sup>Subs. by the A.O. 1950 for the former sub-section.

<sup>3</sup>Subs. by Act 3 of 1951 for “Part B States”.

<sup>4</sup>8th August, 1925, see Notification No. 236-C (2), dated the 8th August, 1925, Gazette of India, 1925, Pt. I, p. 728.

<sup>5</sup>Subs. by the A.O. 1937 for “Governor-General in Council”.

<sup>6</sup>Subs., *ibid*, for “Gazette of India”.

- whatever involving the use of steam, water or other mechanical power or of electrical power;
- (d) "cotton pressing factory" means any factory as defined in the Indian Factories Act, 1911 (XII of 1911)<sup>7</sup> in which cotton is pressed into bales;
  - (e) "cotton waste" means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste;
  - (f) "Indian Central Cotton Committee" means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923 (XIV of 1923), and includes any sub-committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act;
  - (g) "occupier" includes a managing agent or other person authorised to represent the occupier; and
  - (h) "prescribed" means prescribed by or under rules made under this Act.

**3. Maintenance of registers.**—(1) The owner of every cotton ginning factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(2) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(3) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the "[State Government]" in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory relating to any specified bale.

(4) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(5) If—

- (a) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form if any, prescribed for the purpose, or
- (b) any entry in any such register is proved to be false in any material particular, or
- (c) any such register is destroyed before the expiration of the period referred to in sub-section (4);

the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

(6) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub-section (3), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punished with fine which may extend

<sup>7</sup> See now the Factories Act, 1948 (63 of 1948).

<sup>8</sup> Subs. by the A. O. 1950 "Provincial Government".

to fifty or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

**4. Marking of bales.**—(1) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed, before it is removed from the press-house, with a serial number and with the mark prescribed for the factory.

(2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

**5. Returns.**—(1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(2) The <sup>9</sup>[State Government] shall compile from the weekly returns, and shall publish in such manner as <sup>10</sup>[it thinks fit], a statement showing the total number of bales pressed in the <sup>11</sup>[State] during the week and from the commencement of the season to the end of the week, to which the returns relate;

Provided that the number of bales pressed in any individual factory shall not be published.

(3) If default is made in submitting any return as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) until such work has been resumed.

*Explanation.*—In this section “season” means the period notified in this behalf by the <sup>9</sup>[State Government] in the <sup>12</sup>[Official Gazette].

**5A. <sup>13</sup>[Returns from cotton ginning factories.]**—(1) This section shall be in force in <sup>14</sup>[Part C States] only; but the <sup>9</sup>[State Government] of any other <sup>11</sup>[State] may, by notification in the official Gazette, bring this section into force in the <sup>11</sup>[State].

(2) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the quantity of cotton ginned in the factory during the preceding week and from the commencement of the season to the end of that week.

(3) The <sup>9</sup>[State Government] shall compile from the weekly returns so submitted, and shall publish in such manner as it thinks fit, a statement showing the total quantity of cotton ginned in the <sup>11</sup>[State] during the week and from the commencement of the season to the end of the week, to which the returns relate:

Provided that the quantity of cotton ginned in any individual factory shall not be published.

(4) If default is made in submitting any return as required by sub-section (2), the owner of the factory shall be punished with fine which may extend to fifty rupees.

<sup>9</sup> Subs. by the A.O. 1950 for “Provincial Government”.

<sup>10</sup> Subs. by the A.O. 1937 for “the Governor-General in Council may direct”.

<sup>11</sup> Subs. by the A.O. 1950 for “Province”.

<sup>12</sup> Subs. by the A.O. 1937 for “local official Gazette”.

<sup>13</sup> Ins. by Act 9 of 1942, s. 2.

<sup>14</sup> Subs. by the A.O. 1950 for “Chief Commissioners’ Provinces”.

(5) The provisions of sub-section (4) of section 5 apply to cotton ginning factories and the returns referred to in sub-section (2) of this section as they apply to cotton pressing factories and the returns referred to in sub-section (1) of section 5, and "season" in this section means the season as notified for the purposes of section 5.]

**6. Scales and weights.**—(1) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the <sup>15</sup>[Central Government] as standard for the district in which the factory is situated.

(2) If in any factory any scale or weights is used in contravention of the provisions of sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees.

**7. Liability of lessee as owner.**—(1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month, in the case of a cotton ginning factory or three months, in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 4, 5, <sup>16</sup>[5A] and 6.

(2) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

**8. Liability on transfer of ownership.**—(1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

**9. Structural requirements for factories.**—(1) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act—

(a) gin-houses shall be provided with separate entrances and exits for the bringing in of unginned and the taking out of ginned cotton respectively, and

(b) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority:

Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four.

<sup>15</sup> Subs. by the A.O. 1937 for 'Local Government'.

<sup>16</sup> Ins. by Act 9 of 1942, s. 3.

<sup>17</sup>[(1A) In any cotton ginning factory, whether erected before or after the commencement of this Act—

- (a) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939, shall be made so as to minimise the degree of compliance of the factory as a whole with the requirements set forth in clauses (a) and (b) of sub-section (1), and
- (b) every structural addition (whether actually attached to any existing structure in the factory or not), the construction of which commenced after the last-mentioned date, shall be constructed in accordance with plans and specifications approved by the prescribed authority:

Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used where the number of such gins is not more than four.]

(2) Within such period after the commencement of this Act as may be prescribed, the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority.

(3) If the owner of any factory fails to comply with any provision of this section which is applicable to the factory, he shall be punished with fine which may extend to one hundred rupees.

(4) (a) Where the owner of a factory has been convicted under sub-section (3), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub-section (1), <sup>17</sup>[sub-section (1A)] or sub-section (2), as the case may be.

(b) Where the alterations are not made in accordance with the order served under clause (a) of this sub-section, the prescribed authority may serve on the owner and on the occupier, if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (a) of this sub-section and the owner and the occupier, if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause.

**10. Liability of officers of a company.**—Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment.

**11. Cognizance of offences.**—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the <sup>18</sup>[State Government].

(2) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class.

**12. Power of the Central Government to make rules.**—The <sup>19</sup>[Central Government] may make rules to provide for—

- (a) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales;

<sup>17</sup> Ins. by Act 14 of 1939, s. 2.

<sup>18</sup> Subs. by the A.O. 1950 for "Provincial Government".

<sup>19</sup> Subs. by the A.O. 1937 for "Governor-General in Council".

(b) the manner in which bales shall be marked; and

<sup>20</sup>[(c) the standard weight and scale to be used in cotton ginning and cotton pressing factories in any part of <sup>21</sup>[the territories to which this Act extends] and the inspection of the same].

**13. Power of the State Government to make rules.**—The <sup>22</sup>[State Government] may, by notification in the <sup>23</sup>[Official Gazette], make rules consistent with this Act to provide for all or any of the following matters, namely:—

(a) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers;

(b) the appointment of the authority to whom and the time within which the returns required by <sup>24</sup>[sections 5 and 5A] shall be made;

<sup>25</sup> \* \* \* \* \*

(d) the appointment of authorities for the purposes of sections 7, 8 and 9;

(e) the manner of service of orders made under section 9;

(f) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the <sup>22</sup>[State Government];

(g) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.

**14. Power to reject unmarked bales in fulfilment of contracts.**—<sup>26</sup>[(1)] After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other than bales marked <sup>27</sup>[with the mark prescribed under section 4 for the factory in which they were pressed,] shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract:

<sup>28</sup> \* \* \* \* \*

<sup>29</sup>[(2)] Any bale marked in accordance with the provisions of section 4 shall within the meaning of the Indian Evidence Act, 1872 (I of 1872), be presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed.]

**15. Protection for acts done under Act.**—No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

## INDIAN COTTON GINNING AND PRESSING FACTORIES RULES, 1925

### Arrangement of Paragraphs

1. Short title and commencement.
2. Definitions.
3. Application.
4. Special mark.
5. Marks not transferable.
6. Serial No.
7. Manner of marking.

<sup>20</sup> Subs. by A. O. 1937, for the original clause.

<sup>21</sup> Subs. by Act 3 of 1951 for "Part A States and Part C States".

<sup>22</sup> Subs. by the A.O. 1950 for "Provincial Government".

<sup>23</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>24</sup> Subs. by Act 9 of 1942, s. 4, for "section 5".

<sup>25</sup> Cl. (c) was omitted by the A.O. 1937.

<sup>26</sup> Renumbered by Act 14 of 1939, s. 3.

<sup>27</sup> Subs. by Act 14 of 1939, s. 3, for "in accordance with section 4".

<sup>28</sup> Proviso, omitted, *ibid.*

<sup>29</sup> Ins., *ibid.*

## INDIAN COTTON GINNING AND PRESSING FACTORIES RULES, 1925<sup>1</sup>

In exercise of the power conferred by section 12 of the Cotton Ginning and Pressing Factories Act, 1925 (XII of 1925), the Central Government is pleased to make the following rules:—

1. **Short title and commencement.**—(1) These rules may be called the Indian Cotton Ginning and Pressing Factories Rules, 1925.

(1A) They extend to the whole of India except the State of Jammu and Kashmir.

(2) They shall come into force on the eighth day of August, 1925.

2. **Definitions.**—In these rules—

“Act” means the Cotton Ginning and Pressing Factories Act, 1925.

“Section” means a section of the Act.

3. The owner or lessee of every cotton pressing factory shall apply to the authority appointed to receive returns under sub-section (1) of Section 5 for the allotment of the mark required by section 4 to be used for such factory. Such application shall be made, in the case of factories in existence at the commencement of these rules, on or before the 1st September, 1925, and, in case of factories constructed thereafter not less than one month before work commences in the factory.

Provided that the authority aforesaid may at any time allot the mark to be used in a factory in respect of which no application has been made and may intimate the allotment to the owner of such factory.

4. **Special mark.**—(1) The special mark allotted to each factory shall consist of a letter denoting the State in which the factory is situated together with a number denoting the factory.

(2) The letters denoting the State shall be as follows:—

For presses situated in the State of Bombay, the letter	B
For presses situated in the State of Madras, the letter	M
For presses situated in the State of Madhya Pradesh, the letter	C
For presses situated in the State of Punjab, the letter	H
For presses situated in the State of West Bengal, the letter	N
For presses situated in the State of Uttar Pradesh, the letter	U
For presses situated in the State of Bihar, the letter	Q
For presses situated in the State of Orissa, the letter	O
For presses situated in the State of Assam, the letter	A

(3) The number denoting the factory shall run consecutively within each State.

5. **Marks not transferable.**—No special marks once allotted shall be transferred to another factory:—

Provided that when a press is transferred from one State to another, the original allotted mark shall no longer be used and application shall be made to the prescribed authority for allotment of a fresh mark.

6. **Serial No.**—The serial number shall consist of two parts. The first part shall consist of two numerals being the last two integers of the calendar year in which the cotton year has commenced and the second part shall be the running number of the bale according to the press factory register. A new series of running number shall be started at the commencement of each cotton year. The cotton year shall commence on the 1st day of September in each calendar year and shall terminate on the thirty-first day of August next following, except in the State of Madras when the dates for the commencement and ending of the cotton year shall be the first day of February and thirty-first day of January respectively.

6A. The statements compiled by the State Government under sub-section (2) of section 5 shall be published every week in the Fort St. George Gazette in the form specified in Schedule D.

7. **Manner of marking.**—Every bale of cotton pressed in a cotton pressing factory shall be marked in the following manner:—

(1) The special mark and the serial number shall be in English figures and letters and shall be clearly decipherable.

(2) The special mark and serial number shall be punched on one or more of the hoops or stencilled on the hessian on the lashed side of the bale or may be both so punched and stencilled, provided however that, if stencilled such mark and number shall not be stencilled on an end hessian.

8. The inspection of weights and scales used in the cotton ginning and cotton pressing factories in the State of Bombay shall be carried out in accordance with the provisions of the Bombay Weights and Measures Rules, 1934.

<sup>1</sup> These Rules were published under the Department of Commerce Notification No. 23-C (2) dated the 8th August, 1925 as amended.

# **MODEL RULES FOR THE PROTECTION OF HEALTH AND SANITARY ARRANGEMENTS FOR WORKERS EMPLOYED BY C.P.W.D. OR ITS CONTRACTORS.**

## **Arrangement of Paragraphs**

1. Application.
2. Definitions.
3. First aid.
4. Drinking water.
5. Wash and bath places.
6. Scale of accommodation in latrines and urinals.
7. Latrines and urinals for women.
8. Latrines and urinals.
9. Construction of latrines.
10. Disposal of excreta.
11. Provision of shelter during rest.
12. Creche.
13. Canteen.

# **MODEL RULES FOR THE PROTECTION OF HEALTH AND SANITARY ARRANGEMENTS FOR WORKERS EMPLOYED BY C.P.W.D. OR ITS CONTRACTORS<sup>1</sup>**

1. **Application.**—These rules shall apply to all construction works in charge of Central P. W. D.

2. **Definitions.**—(i) Work place means a place at which at an average fifty or more workers are employed in connection with construction work.

(ii) Large work place means a place at which at an average 500 or more workers are employed in connection with construction work.

3. **First aid.**—(a) At every work place there shall be maintained in a readily accessible place, first aid appliance, including an adequate supply of sterilized dressing and sterilized cotton wool. The appliance shall be kept in good order and in large work place they shall be placed under the charge of a responsible person who shall be readily available during working hours.

(b) At large work places where hospital facilities are not available within easy distance of the works, first aid posts shall be established and run by a trained compounder.

(c) Where large work places are remote from regular hospital an indoor ward shall be provided with one bed for every 250 employees.

(d) Where large work places are situated in cities, towns or in their suburbs and no beds are considered necessary owing to the proximity of city or town hospital, an ambulance shall be provided to facilitate removal of urgent cases to those hospitals. At other work places, some conveyance facilities, such as, a car shall be kept readily available to take injured persons or persons suddenly taken seriously ill, to the nearest hospital.

4. **Drinking water.**—(a) In every place, there shall be provided and maintained at suitable places, easily accessible to labour, sufficient supply of water pit.

(b) Where drinking water is obtained from an intermittent public water supply, each work place shall be provided with a storage where such drinking water shall be stored.

(c) Every water supply of storage shall be at a distance of not less than 50 feet from any latrine, drain or other source of pollution. Where water has to be drawn from an existing well, which is within such proximity of latrine, drain or any other source of pollution, the well shall be properly cleaned before water is drawn from it for drinking.

<sup>1</sup> These Model Rules were framed by the Central Government in regard to labour employed in public works. The Central Government have recommended to the various State Governments to follow, as far as possible, the provisions contained in these model rules regarding health and sanitary arrangements in their public works.

In December, 1953, the Central Government decided to have a rapid *ad hoc* survey for collection of necessary data in regard to the labour conditions in the Building and Construction Industry and the enquiry was completed in March 1954 by the Labour Bureau, Ministry of Labour, who reported that "although it may appear to be a very sweeping statement one can not help remarking that the various Rules and Regulations relating to labour in the Building and Construction Industry are observed more in their breach than in their compliance."



All such wells shall be entirely closed in and be provided with trap doors which shall be dust and water proof.

(d) A reliable pump shall be fitted to each covered well, the trap door shall be kept locked and opened only for cleaning or inspection which shall be done at least once a month.

(e) The temperature of drinking water supplied to workers shall not exceed 90°F.

5. **Wash and bath places.**—(i) Adequate washing and bathing places shall be provided separately for men and women.

(ii) Such places shall be kept in clean and drained condition.

6. **Scale of accommodation in latrines and urinals.**—There shall be provided within the precincts of every work place, latrines and urinals in an accessible place, and the accommodation separately for each of them shall not be less than the following scales:—

	<i>No. of Seats.</i>
(a) Where the number of persons employed does not exceed 50	... 2
(b) Where the number of persons employed exceeds 50, but does not exceed 100	... 3
(c) For every additional 100	... 3 per 100

In particular cases, the Executive Engineers shall have the power to vary the scale where necessary.

7. **Latrines and urinals for women.**—If women are employed, separate latrines and urinals screened from those for men and marked in the vernacular in conspicuous letters "For Women only" shall be provided on the scale laid in rule 6. Those for men shall be similarly marked "For Men only". A poster showing the figure of a man and a woman shall also be exhibited at the entrance of latrines for each sex. There shall be adequate supply of water close to the urinals and latrines.

8. **Latrines and urinals.**—Except in work places provided with water flushed latrines connected with a water borne sewage system, all latrines shall be provided with receptacles on dry earth system which shall be cleaned at least four times daily and at least twice during working hours and kept in strictly sanitary conditions. The receptacles shall be tarred inside and outside at least once a year.

9. **Construction of latrines.**—The inside walls shall be constructed of masonry some suitable heat resisting, non-absorbant material and shall be cement washed inside and outside at least once a year. The dates of cement washing shall be noted in a register maintained for this purpose and kept available for inspection.

10. **Disposal of excreta.**—Unless otherwise arranged for by the local sanitary authority, arrangements for proper disposal of excreta incineration at the work place shall be made by means of a suitable incinerator approved by an Assistant Director of Public Health or the Municipal Medical Officer of Health, as the case may be, in whose jurisdiction the work place is situated. Alternatively excreta may be disposed off by putting a layer of a night soil at the bottom of pucca tank prepared for the purpose and covering it with a 6 in. layer of waste of refuse and then covering it up with layer of earth for fortnight when it will turn into manure.

11. **Provision of shelter during rest.**—At every work place there shall be provided free of cost two suitable sheds one for meals and the other for rest, for the use of labour. The height of the shelter shall not be less than 11 ft. from the floor level to the lowest part of the roof.

12. **Creche.**—At every work place at which 50 or more women workers are ordinarily employed, there shall be provided two huts for the use of children under the age of 6 years belonging to such women. One hut shall be used for infants' games and the other as their bed room. The huts shall not be constructed on a lower standard than the following:—

(i) Thatched roof.

(ii) Mud floor and walls.

(iii) Planks spread over the mud floor and covered with matting. The huts shall be provided with suitable and sufficient openings for light and ventilation. There shall be adequate provision for sweepers to keep the place clean. There shall be two dais in attendance. Sanitary utensils shall be provided to the satisfaction of the Health Officer of the area concerned. The use of the huts shall be restricted to children, their attendants and mothers of the children.

13. **Canteen.**—A cooked food canteen on a moderate scale shall be provided for the benefit of workers wherever it is considered expedient.

14. The above rules shall be incorporated in the contracts and in notices inviting tenders and shall form an integral part of the contract.

## INDIAN BOILERS ACT, 1923 (V OF 1923)

### Statement of Objects Reasons<sup>1</sup>

Under the Devolution Rules the regulation of boilers is a provincial subject, subject to legislation by the Indian Legislature. There are at present seven Provincial Boiler Acts; some of them were framed many years ago and are out of date, and all of them are inconsistent with each other. The result is that different rules are enforced in different provinces, and the anomalous position has been reached that a boiler which is allowed to work up to a certain pressure in one province can only be worked to a much lower pressure when transferred to another province. Further, in the interest of safety, a boiler requires regular inspection in whatever province it may be situated, and it is wrong that in certain provinces no boiler law should be in force at all. The object therefore of the present legislation is:

(a) to secure uniformity throughout India in all technical matters connected with boiler regulations, *e.g.*, standards of construction, maximum pressure, and

(b) to insist on the registration and regular inspection of all boilers throughout India.

This object can only be attained by an all-India Act with uniform regulations throughout the country: under the Devolution Rules, as explained above, it is the function of the Central Government to promulgate such an Act.

2. The subject being a highly technical one a Committee of three persons including two boiler experts was appointed to examine the existing provincial laws and to put forward proposals for an all-India Act, based on the provisions of these laws brought up to date and co-ordinated. The report of this Committee has been published and the views of Local Governments obtained upon it. The Bill which is now presented to this Assembly is the result of their recommendations as modified after consideration of the views of Local Governments

3. The only important respect in which the Bill diverges from certain of the existing Acts is with regard to certificated boiler attendants. It is only in a few provinces that boiler attendants are required to possess certificates of competency. The Industrial Commission recommended that this requirement was unnecessary, a recommendation which the Boiler Laws Committee endorsed, and in which Local Governments, including those now insisting on certificates have unanimously agreed.

## INDIAN BOILERS (AMENDMENT) ACT, 1952 (XXV OF 1952)

### Statement of Objects and Reasons<sup>2</sup>

Economisers do not form an integral part of boilers and hence the provisions of the Indian Boilers Act, 1923, as originally enacted, relating to registration and inspection of boilers, did not apply to economisers. A serious explosion to an economiser which occurred in Bombay demonstrated the necessity of providing for the inspection, etc., of economisers and accordingly in 1947 a new section 2-B was inserted in the Indian Boilers Act which enabled the Central Boilers Board to make regulations for regulating the registration and inspection of economisers. The amendment, however, did not make it possible for rules to be framed so that the economisers could be placed in charge of persons holding a certificate of competency. Thus under the existing provisions of the Act a boiler attendant must be the holder of a certificate of competency, but no such certificate of competency can be prescribed for handling economisers.

It is proposed to provide that economisers also should be in charge of persons holding certificate of competency.

## INDIAN BOILERS ACT, 1923 (V OF 1923)

### Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
- 2A. Application of Act to feed-pipes.
- 2B. Application of Act to economisers.
3. Limitation of Application.
4. Power to limit extent.
5. Appointment of Chief Inspectors and Inspectors.
6. Prohibition of use of unregistered or uncertificated boiler.
7. Registration.

<sup>1</sup> Gazette of India, 1922, Part V, p. 249.

<sup>2</sup> Gazette of India, 1952.

8. Renewal of certificate.
  9. Provisional orders.
  10. Use of boiler pending grant of certificate.
  11. Revocation of certificate or provisional order.
  12. Alterations and renewals to boilers.
  13. Alterations and renewals to steam-pipes.
  14. Duty of owners at examination.
  15. Production of certificates, etc.
  16. Transfer of certificates, etc.
  17. Powers of entry.
  18. Report of accidents.
  19. Appeals to Chief Inspector.
  20. Appeals to appellate authority.
  21. Finality of orders.
  22. Minor penalties.
  23. Penalties for illegal use of boiler.
  24. Other penalties.
  25. Penalty for tampering with register mark.
  26. Limitation and previous sanction for prosecution.
  27. Trial of offences.
  - 27A. Central Boilers Board.
  28. Power to make regulations.
  29. Power to make rules.
  30. Penalty for breach of rules.
  31. Publication of regulations and rules.
  32. Recovery of fees, etc.
  33. Applicability to the Government.
  34. Exemptions.
  - Power to suspend in case of emergency.
  35. [Repealed.]
- The Schedule.*—[Repealed.]

## INDIAN BOILERS ACT, 1923 (V OF 1923)<sup>1</sup>

[23rd February, 1923.]

*An Act to consolidate and amend the law relating to steam-boilers.*

Whereas it is expedient to consolidate and amend the law relating to steam-boilers; it is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Indian Boilers Act, 1923.

<sup>2</sup>[(2) It extends to the whole of India <sup>3</sup>[except the State of Jammu and Kashmir].]

(3) It shall come into force on such date<sup>4</sup> as the <sup>5</sup>[Central Government] may, by notification in the <sup>6</sup>[Official Gazette], appoint.

2. **Definitions.**—In this act, unless there is anything repugnant in the subject or context,—

(a) “accident” means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

<sup>7</sup>[(aa) “Board” means the Central Boilers Board constituted under section 27A;]

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, page 249; and for Report of Joint Committee, see *ibid.*, 1923, Pt. V, page 15; also p. 117 ante. This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A. O. 1950 for the former sub-section (2).

<sup>3</sup> Subs. by the Part B States (Laws) Act, 1951 (3 of 1951) for “except Part B States.”

<sup>4</sup> 1st January, 1924, see Notification No. A-61, dated the 4th December, 1923, Gazette of India, 1923, Pt. I, page 1695.

<sup>5</sup> Subs. by the A. O. 1937, for “G. G. in C.”

<sup>6</sup> Subs. by the A. O. 1937, for “Gazette of India.”

<sup>7</sup> Ins. by the Indian Boilers (Amendment) Act, 1937 (11 of 1937), s. 3.

- (b) "boiler" means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure<sup>8</sup> \* \* \* and includes any mounting or other fitting attached to such vessel, which is wholly or partly under pressure when steam is shut off;
- (c) "Chief Inspector" and "Inspector" mean, respectively, a person appointed to be a Chief Inspector and an Inspector under this Act;
- <sup>9</sup>[(cc) "economiser" means any part of a feed-pipe that is wholly or partially exposed to the action of the flue gases for the purpose of recovery of waste heat;
- (ccc) "feed-pipe" means any pipe or connected fitting wholly or partly under pressure through which feed water passes directly to a boiler and <sup>10</sup>[which] does not form an integral part thereof;]
- (d) "owner" includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof;
- (e) "prescribed" means prescribed by regulations or rules made under this Act;
- (f) "steam-pipe" means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe; and
- (g) "structural alteration, addition or renewal" shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

<sup>11</sup>[2A. Application of Act to feed-pipes.—Every reference in this Act (except where the word 'steam-pipe' is used in clause (f) of section 2), to a steam-pipe or steam-pipes shall be deemed to include also a reference to a feed-pipe or feed-pipes, respectively.]

<sup>12</sup>[2B. Application of Act to economisers.—Every reference in this Act to a boiler or boilers (except in clause (ccc) of section 2<sup>13</sup> \* \* \* and section 34) shall be deemed to include also a reference to an economiser or economisers, respectively.]

3. Limitation of application.—(1) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

- (a) in any steam-ship as defined in section 3 of the <sup>14</sup>Indian Steamships Act, 1884 (VII of 1884), or in any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917 (I of 1917); or

<sup>15</sup>[(b) belonging to, or under the control of, the Army, Navy or Air Force; or]

<sup>8</sup> The words "for use outside such vessel" rep. by the Indian Boilers (Amendment) Act, 1929 (9 of 1929), s. 2.

<sup>9</sup> Subs. by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 2, for the former clause (cc).

<sup>10</sup> Ins. by the Repealing and Amending Act, 1949 (40 of 1949), s. 3 and Sch. II.

<sup>11</sup> Ins. by the Indian Boilers (Amendment) Act, 1943 (17 of 1943) s. 3.

<sup>12</sup> Ins. by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 3.

<sup>13</sup> The words, letters and figures "clause (e) of section 6, clauses (c) and (d) of section 11 and clause (d) of section 29" and omitted by the Indian Boilers (Amendment) Act, 1952 (25 of 1952).

<sup>14</sup> See now the Indian Merchant Shipping Act, 1923 (21 of 1923), s. 2.

<sup>15</sup> Subs. by the Indian Boilers (Amendment) Act, 1951 (38 of 1951), s. 2 for the former clause.

<sup>16</sup>[(c) appertaining to a sterilizer or disinfector of a type such as is commonly used in hospitals, if the boiler does not exceed twenty gallons in capacity.]

(2) The <sup>17</sup>[Central Government] may, by notification in the <sup>18</sup>[Official Gazette], declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railways administered <sup>19</sup>[by the <sup>20</sup>[Central Government] or by any <sup>21</sup>[State Government]] or by any railway company as defined in clause (5) of section 3 of the Indian Railways Act, 1890 (IX of 1890).

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**4. Power to limit extent.**—The <sup>21</sup>[State Government] may, by notification in the <sup>18</sup>[Official Gazette], exclude<sup>22</sup> any specified area from the operation of all or any specified provisions of this Act.

**5. Appointment of Chief Inspectors and Inspectors.**—(1) The <sup>21</sup>[State Government] may appoint such persons as it thinks fit to be Inspectors for the <sup>24</sup>[State] for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act.

(2) The <sup>21</sup>[State Government] shall likewise appoint a person to be Chief Inspector for the <sup>24</sup>[State] who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(3) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

**6. Prohibition of use of unregistered or uncertified boiler.**—Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used—

- (a) unless it has been registered in accordance with the provisions of this Act;
- (b) in the case of any boiler, which has been transferred from one <sup>21</sup>[State] to another, until the transfer has been reported in the prescribed manner;
- (c) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;
- (d) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;
- (e) where the <sup>21</sup>[State Government] has made rules requiring the boilers shall be in charge of persons holding certificates of competency, unless the boiler is in charge of a person holding the certificate required by such rules:

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act;

<sup>16</sup> Added by the Indian Boilers (Amendment) Act, 1942 (5 of 1942), s. 2.

<sup>17</sup> Subs. by the A. O. 1948, for "Safety Controlling Authority".

<sup>18</sup> Subs. by the A. O. 1937, for "Gazette of India".

<sup>19</sup> Subs. *ibid.*, for "by the Government".

<sup>20</sup> Subs. by the A. O. 1948, for "Federal Railway Authority".

<sup>21</sup> Subs. by the A. O. 1950, for "Provincial Government".

<sup>22</sup> Certain words were rep. by the A. O. 1948.

<sup>23</sup> The Andaman and Nicobar Islands have been excluded from the operation of the provisions of this Act, *see* Notification No. G(B)-10, dated the 21st June, 1924, Gazette of India, 1924, Pt. I, page 585.

<sup>24</sup> Subs. by the A. O. 1950, for "Province".

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**7. Registration.**—(1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under sub-section (1), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days notice of the date so fixed.

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Inspector, on receipt of the report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(b) refuse to register the boiler;

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(5) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit, and as is in accordance with the regulations made under this Act.

<sup>25</sup>[Provided that a certificate issued under this sub-section in respect of an economiser may authorise its use for a period not exceeding twenty-four months.]

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

**8. Renewal of certificate.**—(1) A certificate authorising the use of a boiler shall cease to be in force—

(a) on the expiry of the period for which it was granted; or

(b) when any accident occurs to the boiler; or

(c) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler; or

(d) when any structural alteration, addition or renewal is made in or to the boiler; or

(e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler; or

(f) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

<sup>25</sup> Proviso repealed by the Repealing and Amending Act, 1939 (34 of 1939), s. 3 and Sch. II.

<sup>26</sup> This proviso was added by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 4.

(2) When an order is made under clause (f) of sub-section (1), the grounds on which the order is made shall be communicated to the owner with the order.

(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

<sup>27</sup>[Provided that where the certificate relates to an economiser, the application for its renewal may be for a period not exceeding twenty-four months.]

(4) An application under sub-section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed:

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition, or renewal, the Chief Inspector may dispense with the payment of any fee.

<sup>27</sup>[Provided further that in the case of an economiser, the owner shall be given not less than thirty days' notice of the date fixed for its examination.]

(5) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewal certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act:

<sup>27</sup>[Provided that a renewed certificate issued under this sub-section in respect of an economiser may authorise its use for a period not exceeding twenty-four months.]

Provided <sup>27</sup>[further] that if the Inspector—

(a) proposes to issue any certificate—

(i) having validity for a less period than the period entered in the application, or

(ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(b) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(c) is of opinion that the boiler is not fit for use,

the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(6) The Chief Inspector, on receipt of a report under sub-section (5) may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it:

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(7) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

**9. Provisional orders.**—Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (3) of section 7 or sub-section (5) of section 8, he may, if the boiler is not a boiler the use of which has been pro-

<sup>27</sup> Added by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 5.

hibited under clause (f) of sub-section (1) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(a) on the expiry of six months from the date on which it is granted,  
or

(b) on receipt of the orders of the Chief Inspector, or

(c) in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8;

and on so ceasing to be in force shall be surrendered to the Inspector.

**10. Use of boiler pending grant of certificate.**—(1) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(2) Nothing in sub-section (1) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8 occurring after the expiry of the period of the certificate.

**11. Revocation of certificate or provisional order.**—The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

(a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or

(b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or

(c) where the <sup>28</sup>[State Government] has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules; or

(d) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler in the opinion of the Chief Inspector competent to have charge thereof:

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

**12. Alterations and renewals to boilers.**—No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

**13. Alterations and renewals to steam-pipes.**—Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

<sup>28</sup> Subs. by the A. O. 1950 for "Provincial Government"



**14. Duty of owner at examination.**—(1) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

- (a) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him;
- (b) to have the boiler properly prepared and ready for examination in the prescribed manner; and
- (c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (1), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

**15. Production of certificates, etc.**—The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the <sup>29</sup>Indian Factories Act, 1911 (XII of 1911), or by any person specially authorised in writing by a District Magistrate or Commissioner of Police.

**16. Transfer of certificates, etc.**—If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

**17. Power of entry.**—An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

**18. Report of accidents.**—(1) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident.

**19. Appeals to Chief Inspector.**—Any person considering himself aggrieved by—

- (a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or
- (b) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

<sup>29</sup> See now the Factories Act, 1948 (63 of 1948).

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

**20. Appeals to appellate authority.**—Any person considering himself aggrieved by an original or appellate order of the Chief Inspector—

- (a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler; or
- (b) refusing to grant a certificate having validity for the full period applied for; or
- (c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or
- (d) withdrawing or revoking a certificate or provisional order; or
- (e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or
- (f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe, or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the <sup>30</sup>[State Government] under this Act.

**21. Finality of orders.**—An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

**22. Minor penalties.**—Any owner of a boiler who refuses or without reasonable excuse neglects—

- (i) to surrender a provisional order as required by section 9, or
- (ii) to produce a certificate or provisional order when duly called upon to do so under section 15, or
- (iii) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

**23. Penalties for illegal use of boiler.**—Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

**24. Other penalties.**—Any person who—

- (a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one <sup>31</sup>[State] to another without such transfer having been reported as required by section 6, or
- (b) being the owner of a boiler fails to cause the registered number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (6) of section 7, or
- (c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so

<sup>30</sup> Subs. by the A. O. 1950, for "Provincial Government."

<sup>31</sup> Subs. *ibid.*, for "Province."

required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or

(d) fails to report an accident to a boiler or steam-pipe when so required by section 18, or

(e) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act.

shall be punishable with fine which may extend to five hundred rupees.

**25. Penalty for tampering with register mark.**—(1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees,

(2) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

**26. Limitation and previous sanction for prosecutions.**—No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

**27. Trial of offences.**—No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

<sup>32</sup>[**27A. Central Boilers Board.**—(1) A Board to be called the Central Boilers Board shall be constituted to exercise the powers conferred by section 28.

(2) The Board shall consist of <sup>33</sup>[nineteen] members, namely:—

(a) a chairman to be nominated by the <sup>34</sup>[Central Government];

<sup>35</sup>[(b) one member to be nominated by the <sup>36</sup>[State] Government <sup>37</sup>[of each Part A or Part B State];

(c) one member, holding office for a period of three years, to be nominated <sup>38</sup>[by the Central Government to represent Part C States]; and

(d) one member to be nominated by the <sup>39</sup>[Chairman, Railway Board.]

(3) Any vacancy occurring in the Board, otherwise than by the expiry of the term of office of the members referred to in clause (c) of sub-section (2), shall be filled as soon as may be by a nomination made by the authority by whom the member vacating office was nominated.

(4) The Board shall have full power to regulate by by-laws or otherwise its own procedure and the conduct of all business to be transacted by the Board.

(5) The powers of the Board may be exercised notwithstanding any vacancy in the Board.]

<sup>32</sup> Ins. by the Indian Boilers (Amendment) Act, 1937 (11 of 1937), s. 4.

<sup>33</sup> Subs. by Part B States (Laws) Act, 1951 (3 of 1951) for "twelve".

<sup>34</sup> Subs. by the A. O. 1937 for "G. G. in C.".

<sup>35</sup> Subs. by the A. O. 1948 for the former clause.

<sup>36</sup> Subs. by the A. O. 1950 for "Provincial".

<sup>37</sup> Subs. by Act 3 of 1951 for "of each Part A State".

<sup>38</sup> Subs. by the A. O. 1950 for "alternately by the Provincial Government of Delhi and the Provincial Government of Ajmer-Merwara".

<sup>39</sup> Subs. by the Repealing and Amending Act, 1952 (48 of 1952) for "Chief Commissioner of Railways".

**28. Power to make Regulations.**—The <sup>40</sup>[Board] may, by notification in the Gazette of India, make regulations consistent with this Act for all or any of the following purposes, namely:—

- (a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act;
- <sup>40a</sup>[(aa) for prescribing the circumstances in which, the extent to which, and the conditions subject to which variation from the standard conditions laid down under clause (a) may be permitted];
- (b) for prescribing the method of determining the maximum pressure at which a boiler may be used;
- (c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;
- (d) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor;
- (e) for ensuring the safety of persons working inside a boiler; and
- (f) for providing for any other matter which is not, in the opinion of the <sup>40</sup>[Board], a matter of merely local or <sup>41</sup>[State] importance.

**29. Power to make Rules.**—The <sup>41</sup>[State Government] may, by notification in the <sup>42</sup>[Official Gazette], make rules consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely:—

- (a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, <sup>43</sup>\* \* \* \*, for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities;
- (b) for regulating the transfer of boilers;
- (c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act;
- (d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted;
- (e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8;
- (f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case;
- (g) for regulating inquiries into accidents;
- (h) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure;
- (i) for determining the mode of disposal of fees, costs and penalties levied under this Act; and
- (j) generally to provide for any matter which is, in the opinion of the <sup>41</sup>[State Government], a matter of merely local importance in the <sup>44</sup>[State];

<sup>40</sup> Subs. by the Indian Boilers (Amendment) Act, 1937 (11 of 1937), s. 5, for "G. G. in C."

<sup>40a</sup> Ins. *ibid.*

<sup>41</sup> Subs. by the A. O. 1950 for "Provincial", "Provincial Government".

<sup>42</sup> Subs. by the A. O. 1937, for "local official Gazette".

<sup>43</sup> The words "for regulating their salary, allowance and conditions of service" rep. by the A. O. 1937.

<sup>44</sup> Subs. by the A. O. 1950 for "Province".

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**30. Penalty for breach of Rules.**—Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

**31. Publication of Regulations and Rules.**—(1) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication.

(2) Regulations and rules so made shall be published in the Gazette of India and the local official Gazette respectively, and, on such publication, shall have effect as if enacted in this Act.

**32. Recovery of Fees, etc.**—All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

**33. Applicability to the Government.**—Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the <sup>46</sup>[Government].

**34. Exemptions.**—<sup>47</sup>[(1) The <sup>48</sup>[State Government] may, by notification in the <sup>49</sup>[Official Gazette], exempt from the operation of this Act, subject to such conditions and restrictions as it thinks fit, any boilers or classes or types of boilers used exclusively for the heating of buildings or the supply of hot water.]

<sup>47</sup>[(2) **Power to suspend in case of emergency.**—In case of any emergency, the <sup>48</sup>[State Government] may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of the Act.

**35. [Repeal of enactments].**—*Repealed by the Repealing Act, 1927 (XII of 1927).*

#### [THE SCHEDULE.]

[Enactments repealed.]

*Repealed by the Repealing Act, 1927 (XII of 1927).*

## INDIAN ELECTRICITY ACT, 1910 (IX OF 1910) (Extracts)

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<sup>45</sup> The proviso was rep. by the A. O. 1937.

<sup>46</sup> Subs. by the A. O. 1950 for "Crown".

<sup>47</sup> The original s. 34 was renumbered as sub-section (2) of that section, and sub-section (1) was ins. by the Indian Boilers (Amendment) Act, 1929 (9 of 1929), s. 3.

<sup>48</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>49</sup> Subs. by the A. O. 1937, for "Local Official Gazette".

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SUPPLEMENTARY.

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INDIAN ELECTRICITY ACT, 1910 (IX OF 1910) (Extracts)

*An Act to amend the law relating to the supply and use of electrical energy.*

[18th March, 1910.]

Whereas it is expedient to amend the law relating to the supply and use of electrical energy; it is hereby enacted as follows:—

PART I—PRELIMINARY.

**1. Short title, extent and commencement.**—(1) This Act may be called the Indian Electricity Act, 1910.

<sup>1</sup>[(2) It extends to the whole of India <sup>2</sup>[except the State of Jammu and Kashmir]];

(3) It shall come into force on such date<sup>3</sup> as the <sup>4</sup>[Central Government] may, by notification in the <sup>5</sup>[Official Gazette], direct in this behalf.

**2. Definitions.**—In this Act, expressions defined in the Indian Telegraph Act, 1885 (XIII of 1885), have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,—

(a) “aerial line” means any electric supply-line which is placed above ground and in the open air;

<sup>1</sup> Subs. by the A. O. 1950 for the original sub-section.

<sup>2</sup> Subs. by Act 3 of 1951.

<sup>3</sup> Brought into force on the 1st January, 1911, see Gazette of India, 1910, Pt. I, p. 1236.

<sup>4</sup> Subs. for “G. G. in C.” by the A. O. 1937.

<sup>5</sup> Subs. for “Gazette of India” by the *ibid.*

- (b) "area of supply" means the area within which alone a licensee is for the time being authorized by his license to supply energy;
- (c) "consumer" means any person who is supplied with energy by a licensee or whose premises are for the time being connected for the purposes of a supply of energy with the works of a licensee;
- \* \* \* \*
- (e) "distributing main" means the portion of any main with which a service-line is, or is intended to be, immediately connected;
- (f) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy;
- (g) "energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message;
- \* \* \* \*
- (i) "main" means any electric supply-line through which energy is, or is intended to be, supplied by a licensee to the public;
- (j) "prescribed" means prescribed by rule made under this Act;
- (k) "public lamp" means an electric lamp used for the lighting of any street;
- “(1) "service-line" means any electric supply-line through which energy is, or is intended to be, supplied by a licensee—
- (i) to a single consumer either from a distributing main or immediately from the licensee's premises, or
- (ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main.]

#### PART IV—GENERAL

##### Protective Clauses

**31. Protection of railways and canals, docks, wharves and piers.**—No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, tramway, canal or water-way or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, tramway, canal or water-way.

**32. Protection of telegraphic, telephonic and electric-signalling lines.**—(1) Every person generating, transmitting, supplying or using energy (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his system, so as not injuriously to affect, whether by induction, or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric-signalling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph-authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to

\* Subs. by Act I of 1922, s. 2, for the original clause.

7[the Central Government]; 7[the Central Government], unless 4[it] is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

*Explanation.*—For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected if telegraphic, telephonic or electric-signalling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric supply-line or work or by any use made thereof.

**33. Notice of accidents and inquiries.**—9[(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in, or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence, and of any loss of life or personal injury, actually occasioned by the accident, in such form and within such time and to such authorities as the 10[State Government] may, by general or special order, direct.]

(2) 10[State Government] may, if it thinks fit, require any Electric Inspector, or any other competent person appointed by it in this behalf, to inquire and report—

- (a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by, or in connection with, the generation, transmission, supply or use of energy, or
- (b) as to the manner in, and extent to, which the provisions of this Act or of any license or rules thereunder, so far as those provisions affect the safety of any person, have been complied with.

**34. Prohibition of connection with earth, and power for Government to interfere in certain cases of default.**—(1) No person shall, in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by the 10[State Government].

(2) If at any time it is established to the satisfaction of the 10[State Government)]—

- (a) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (1), or
- (b) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph-line, or

7 Subs. for the words "the Local Government", by the A. O. 1937.

8 Subs. by Act 38 of 1920, s. 2 and Sch. I for the word "he".

9 Subs. by Act I of 1922, s. 15, for the original sub-section.

10 Subs. by the A. O. 1950 for "Provincial Government".



(c) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder,

the <sup>13</sup>[State Government] may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

#### Administration and rules.

**35. Advisory Boards.**—<sup>12</sup>[The Central Government may, for the whole or any part of the territories to which this Act extends, and each State Government may, for the whole or any part of the State, by notification in the Official Gazette, constitute an Advisory Board.]

(2) Every such Board shall consist of a chairman and not less than two other members.

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(3) The <sup>14</sup>[Central Government] or the <sup>15</sup>[State Government] as the case may be, may, by general or special order,—

<sup>16</sup>[(a) determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed,]

<sup>16</sup>[(b)] define the duties and regulate the procedure of any such Board,

<sup>16</sup>[(c)] determine the tenure or office of the members of any such Board, and

<sup>16</sup>[(d)] give directions as to the payment of fees to, and the travelling expenses incurred by, any member of any such Board in the performance of his duty.

**36. Appointment of Electric Inspectors.**—(1) The <sup>14</sup>[Central Government] may, by notification in the <sup>17</sup>[Official Gazette], appoint duly qualified persons to be Electric Inspectors, and every Electric Inspector so appointed shall <sup>18</sup>[in relation to mines, oil-fields and railways] exercise the powers and perform the functions of an Electric Inspector under this Act within such areas and subject to such restrictions as the <sup>14</sup>[Central Government] may direct.

(2) The <sup>15</sup>[State Government] may, by notification in the <sup>19</sup>[Official Gazette], appoint duly qualified persons to be Electric Inspectors within such areas as may be assigned to them respectively; and every Inspector so appointed shall <sup>18</sup>[except in relation to mines, oil-fields and railways] exercise the powers and perform the functions of an Electric Inspector under this Act subject to such restrictions as the <sup>15</sup>[State Government] may direct.

(3) In the absence of express provision to the contrary in this Act, or any rule thereunder, an appeal shall lie from the decision of an Electric Inspector to the <sup>14</sup>[Central Government] or the <sup>15</sup>[State Government], as the case may be <sup>20</sup>[or, if the <sup>14</sup>[Central Government] or the <sup>15</sup>[State Government], as the case may be, by general or special order, so directs, to an Advisory Board.]

<sup>12</sup> Subs. by Act 3 of 1951, for the former sub-section.

<sup>13</sup> Sub-section (3) omitted by Act I of 1922, s. 16.

<sup>14</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>15</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>16</sup> This clause was ins. and the original clauses (a), (b) and (c) re-lettered (b), (c) and (d) by Act I of 1922, s. 16.

<sup>17</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>18</sup> Ins. by the A. O. 1937.

<sup>19</sup> Subs. by the A. O. 1937 for "Local Official Gazette".

<sup>20</sup> Ins. by Act I of 1922, s. 17.

<sup>21</sup>[36A. **Central Electricity Board.**—(1) A Board to be called the Central Electricity Board shall be constituted to exercise the powers conferred by section 37.

(2) The Central Electricity Board shall consist of <sup>22</sup>[twenty] members, namely:—

(a) a chairman to be nominated by the <sup>23</sup>[Central Government];

<sup>24</sup>[(b) one member to be nominated by the Government of each of the States to which this Act extends.]

(c) one member, holding office for a period of three years, to be nominated alternately by the <sup>25</sup>[State Government] of Delhi and the <sup>25</sup>[State Government] of <sup>26</sup>[Ajmer];

(d) one member to be nominated by the Chief Commissioner of Railways; and

(e) one member to be nominated by the Chief Inspector of Mines.

(3) Any vacancy occurring in the Board, otherwise than by the expiry of the term of office of the member referred to in clause (c) of sub-section (2), shall be filled as soon as may be by a nomination made by the authority by whom the member vacating office was nominated.

(4) The Board shall have full power to regulate by bye-laws or otherwise its own procedure and the conduct of all business to be transacted by it.

(5) The powers of the Central Electricity Board may be exercised notwithstanding any vacancy in the Board.]

**37. Power for Board to make rules.**—(1) The <sup>27</sup>[Central Electricity Board] may make rules, for <sup>28</sup>[the whole or any part of the territories to which this Act extends], to regulate the generation, transmission, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the form of applications for licenses and the payments to be made in respect thereof;

(b) regulate the publication of notices;

(c) prescribe the manner in which objections with reference to any application under Part II are to be made;

(d) provide for the preparation and submission of accounts by licensees in a specified form;

(e) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply, and for the examination of the records of such tests by consumers;

(f) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission, supply or use of energy;

(g) for the purposes of electric traction regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines

<sup>21</sup> Ins. by Act. 10 of 1937, s. 3.

<sup>22</sup> Subs. by Act 3 of 1951, for "thirteen".

<sup>23</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>24</sup> Subs. by Act 3 of 1951 for the former clause.

<sup>25</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>26</sup> Subs. by the A. O. 1950 for "Ajmer-Merwara".

<sup>27</sup> Subs. by Act 10 of 1937, s. 4, for "G. G. in C".

<sup>28</sup> Subs. by Act 3 of 1951 for "the territories for the time being comprised within Part A States and Part C States or any part of such territories".

and apparatus of parties other than the owners of the electric traction system, or with the currents therein, whether the earth is used as a return or not;

(h) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy;

(i) prescribe the qualifications to be required of Electric Inspectors;

(j) authorize any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests;<sup>29</sup>

(k) authorize and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act; <sup>30</sup>[and

(l) provide for any matter which is to be or may be prescribed.

(3) Any rules made in pursuance of clause (f) or clause (h) of sub-section (2) shall be binding on the <sup>31</sup>[Government].]

<sup>30</sup>[(4)] In making any rule under this Act, the <sup>32</sup>[Central Electricity Board] may direct that every breach thereof shall be punishable with fine which may extend to three hundred rupees, and, in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

**38. Further provisions respecting rules.**—(1) The power to make rules under section 37 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of rules proposed to be made under section 37 will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

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<sup>33</sup>[(3)] All rules made under section 37 shall be published in the Gazette of India, and all such publication, shall have effect as if enacted in this Act.

### Criminal Offences and Procedure.

**39. Theft of energy.**—Whoever dishonestly abstracts, consumes or uses any energy shall be deemed to have committed theft within the meaning of the Indian Penal Code (XLV of 1860); and the existence of artificial means for such abstraction shall be *prima facie* evidence of such dishonest abstraction.

**40. Penalty for maliciously wasting energy or injuring works.**—Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

<sup>29</sup> The word "and" omitted by Act 1 of 1922, s. 18.

<sup>30</sup> The word "and" clause (1) and sub-section (3) inserted and the original sub-section (3), re-numbered (4), *ibid.*

<sup>31</sup> Subs. by the A. O. 1950 for "Crown".

<sup>32</sup> Subs. by Act 10 of 1937, s. 4 for "G. G. in C".

<sup>33</sup> Sub-section (3) omitted and the original sub-section (4) re-numbered (3) by Act 10 of 1937, s. 5.

**41. Penalty for unauthorised supply of energy by non-licensees.**—Whoever, in contravention of the provisions of section 28, engages in the business of supplying energy shall be punishable with fine which may extend to three thousand rupees, and, in the case of a continuing contravention, with a daily fine which may extend to three hundred rupees.

**42. Penalty for illegal or defective supply or for non-compliance with order.**—Whoever—

- (a) being a licensee, save as permitted under section 27 or section 51 or by his license, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or
- (b) being a licensee, in contravention of the provisions of this Act or of the rules thereunder or in breach of the conditions of his license and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or
- (c) makes default in complying with any order issued to him under section 34, sub-section (2);

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

**43. Penalty for illegal transmission or use of energy.**—Whoever, in contravention of the provisions of section 30, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of continuing offence, with daily fine which may extend to fifty rupees.

**44. Penalty for interference with meters or licensee's works, and for improper use of energy.**—Whoever—

- (a) connects any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred to in section 26, sub-section (7), with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention; or
- (b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent; or
- (c) maliciously injures any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred to in section 26, sub-section (7), or wilfully or fraudulently, alters the index of any such meter, indicator or apparatus, or prevents any such meter, indicator or apparatus from duly registering; or
- (d) improperly uses the energy of a licensee;

shall be punishable with fine which may extend to <sup>34</sup>[five hundred] rupees, and, in the case of a continuing offence, with a daily fine which may extend to <sup>35</sup>[fifty] rupees; and <sup>36</sup>[if it is proved that any artificial means exist] for making such connection as is referred to in clause (a), or such communication as is referred to in clause (b), or for causing such alteration or prevention as is referred to in clause (c), or for facilitating such improper use as is referred to in clause (d), <sup>37</sup>[and that] the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not <sup>38</sup>[it shall be presumed, until the contrary is

<sup>34</sup> Subs. by Act 1 of 1922, s. 19 for "three hundred".

<sup>35</sup> Subs. for "thirty", *ibid.*

<sup>36</sup> Subs. for "the existence of artificial means", *ibid.*

<sup>37</sup> Subs. for "shall, where", *ibid.*

proved,] that such connection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such consumer.

**45. Penalty for extinguishing public lamps.**—Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both.

**46. Penalty for negligently wasting energy or injuring works.**—Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole, or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

**47. Penalty for offences not otherwise provided for.**—Whoever, in any case not already provided for by sections 39 to 46 (both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any of the provisions of section 13, 14, 15, 17 and 32, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency, and that the offender complied with the said provisions as far as was reasonable in the circumstances.

**48. Penalties not to affect other liabilities.**—The penalties imposed by sections 39 to 47 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or in the case of a licensee, the revocation of his license, which the offender may have incurred.

**49. Penalties where works belong to Government.**—The provisions of sections 39, 40, 44, 45 and 46 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by, or of works belonging to, <sup>39</sup>[Central Government or any <sup>40</sup>[State] Government.]

**50. Institution of prosecutions.**—No prosecution shall be instituted against any person for any offence against this Act or any rule, license or order thereunder, except at the instance of the Government or an Electric Inspector, or of a person aggrieved by the same.

#### Supplementary.

**51. Exercise in certain cases of powers of telegraph-authority.**—Notwithstanding anything in sections 12 to 16 (both inclusive) and sections 18 and 19, the <sup>41</sup>[State Government] may, by order in writing, for the placing of appliances and apparatus for the transmission of energy, confer upon any public officer or licensee, subject to such conditions and restrictions (if any) as the <sup>41</sup>[State Government] may think fit to impose, and to the provisions of the Indian Telegraph Act, 1885 (XIII of 1885), any of the powers which the telegraph-authority possesses under that Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

**52. Arbitration.**—Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided

<sup>38</sup> Subs. for "be *prima facie* evidence", *ibid*.

<sup>39</sup> Subs. by the A. O. 1948 for "any Government in British India".

<sup>40</sup> Subs. by the A. O. 1950 for "Provincial".

<sup>41</sup> Subs. by the A. O. 1950 for "Provincial Government".

in the license of a licensee, be determined by such person or persons as the <sup>42</sup>[State Government] may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the <sup>43</sup>\* Arbitration Act, <sup>44</sup>[1940] (X of 1940). I

**53. Service of notices, orders or documents.**—(1) Every notice, order or document by or under this Act required or authorized to be addressed to any person may be served by post or left—

(a) where <sup>45</sup>[the Central Government or the <sup>46</sup>[State] Government] is the addressee, at the office of <sup>47</sup>[such officer as the <sup>48</sup>[Central Government] or the <sup>42</sup>[State Government], as the case may be, may designate in this behalf;]

<sup>49</sup>\*                      \*                      \*                      \*                      \*

(b) where a local authority is the addressee, at the office of the local authority;

(c) where a company is the addressee, at the registered office of the Company or, in the event of the registered office of the Company not being in India, at the head office of the Company in India;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

**54. Recovery of sums recoverable under certain provisions of Act.**—Every sum declared to be recoverable by section 5, clause (f), section 6, sub-section (2), section 14, sub-section (2), clause (h), section 16, sub-section (2), section 18, sub-section (2) or sub-section (4), or section 26, sub-section (4), and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any moveable property belonging to such person.

**55. Delegation of certain functions of <sup>42</sup>[State Government] to Electric Inspectors.**—The <sup>42</sup>[State Government] may, by general or special order, authorize the discharge of any of its functions under section 13 or section 18, <sup>50</sup>[or section 34, sub-section (2)], or clause V, sub-clause (2), or clause XIII of the Schedule by an Electric Inspector.

**56. Protection for acts done in good faith.**—No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

**57. Amendment of the Land Acquisition Act, 1894.**—(1) In section 40, sub-section (1), clause (b), and section 41, sub-section (5), of the Land Acquisition

<sup>42</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>43</sup> The word "Indian" omitted by Act 32 of 1940, s. 3 and Sch. II.

<sup>44</sup> Subs. by Act 10 of 1940 s. 49 and Sch. IV, for "1899".

<sup>45</sup> Subs. by the A. O. 1937 for "the Government".

<sup>46</sup> Subs. by the A. O. 1950 for "Provincial".

<sup>47</sup> Subs. by Act 1 of 1922, s. 21, for "the Secretary in the Public Works Department".

<sup>48</sup> Subs. for "G. G. in C." by A. O. 1937.

<sup>49</sup> Clause (aa) repealed by the A. O. 1948.

<sup>50</sup> Ins. by Act 1 of 1922, s. 22.

Act, 1894 (I of 1894), the term "work" shall be deemed to include electrical energy supplied, or to be supplied, by means of work to be constructed.

(2) The <sup>51</sup>[State Government] may, if it thinks fit, on the application of any person, not being a company, desirous of obtaining any land for the purposes of his undertaking, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 (I of 1894), in the same manner and on the same conditions as it might be acquired if the person were a company.

## INDIAN ELECTRICITY RULES, 1937 (EXTRACTS)

### Arrangement of Paragraphs

#### CHAPTER I.—PRELIMINARY

1. Short title.
2. Definitions.
3. Authorisation.

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#### CHAPTER X—ADDITIONAL PRECAUTIONS TO BE ADOPTED IN MINES AND OIL FIELDS

95. Application of Chapter.
96. Responsibility for observance.
97. Notices.
98. Plans.
99. Lighting, communications and fire precautions
100. Isolation and fixing of transformer, switchgear, etc.
101. Method of earthing.
102. Earth or fault detectors.
103. Earthing metal, etc.
104. Motors and their transformers
105. Switchgear and terminals
106. Cutting of supply.
107. Cables.
108. Flexible cables.
109. Portable machines
110. Sundry precautions.
111. Precautions where gas exists
112. Shot-firing.
113. Signalling.
114. Haulage.
115. Supervision.
116. Exemptions.

#### CHAPTER XI.—MISCELLANEOUS

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120. Responsibility of Agents and Managers.
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ANNEXURE IX—Form of Annual Return for Oil-fields.

ANNEXURE X—Log Sheet for Mines and Oil-fields.

<sup>51</sup> Subs. by the A.O. 1950 for "Provincial Government".

# INDIAN ELECTRICITY RULES, 1937 (EXTRACTS)<sup>1</sup>

In exercise of the powers conferred by section 37 of the Indian Electricity Act, 1910 (IX of 1910), and in supersession of the Indian Electricity Rules, 1922, the Central Government is pleased after previous publication to make the following rules applicable to the whole of India, to regulate the generation, transmission, supply and use of energy, and generally to carry out the purposes and objects of the said Act—

## INDIAN ELECTRICITY RULES, 1937

### CHAPTER I—PRELIMINARY

1. (1) These rules may be called the Indian Electricity Rules 1937.
- (2) They extend to the whole of India except the State of Jammu and Kashmir.<sup>2</sup>
2. **Definitions.**—(1) In these rules, unless there is anything repugnant in the subject or context,—
  - (a) “the Act” means the Indian Electricity Act, 1910 (IX of 1910).
  - (b) “conductor” means an electrical conductor arranged to be electrically connected to a system;
  - (c) “earthed” or “connected with earth” means connected with the general mass of earth in such manner as to ensure at all times an immediate discharge of energy without danger;
  - (d) “earthing system” means an electrical system in which all the conductors are earthed;
  - (e) “electrician” means a person who is over 21 years of age and is competent for the purposes of the rule in which the term is used and who has been appointed in writing by the lessee, owner, agent or manager of any apparatus for the purpose of supervising it;
  - (f) “Inspector” means an Electric Inspector appointed under section 36;
  - (g) “Inspector of Mines” means an Inspector appointed under the Indian Mines Act, 1923 (IV of 1923)<sup>3</sup>;
  - (h) “live” means electrically charged;
  - (i) “metallic covering” means iron or steel armouring with or without a lead or other metallic sheath as the conditions of the case may require or an iron or steel pipe surrounding one or more conductors;
  - (j) “neutral conductor” means that conductor of a multi-wire system the pressure of which is normally intermediate between the pressures of the other conductors of the system;
  - (k) “open sparking” means sparking which owing to the lack of adequate provisions for preventing the ignition of inflammable gas external to the apparatus would ignite such inflammable gas;
  - (l) “owner”, “agent” or “manager” of a mine have the same meanings as are assigned to them in section 3 (g), 3 (a) and 15 (1) respectively, of the Indian Mines Act, 1923 (IV of 1923)<sup>3</sup>;
  - (m) “pressure” means the difference of electric potential measured in volts between any two conductors or between any part of either conductor and the earth as measured by a suitable voltmeter, and is said to be—
    - (i) “low” where the normal pressure is not greater than 250 volts, and the pressure in no circumstances exceeds 263 volts;
    - (ii) “medium” where the normal pressure is greater than 250 volts, but is not greater than 650 volts, and the pressure in no circumstances exceeds 683 volts;
    - (iii) “high” where the normal pressure exceeds 650 volts or the pressure at any time exceeds 683 volts;
  - (aa) “section” means a section of the Act;
  - (bb) “switchgear” means switches, cut-outs or fuses, conductors, and other apparatus in connection therewith used for the purpose of controlling the current or pressure in any system or part of a system;

<sup>1</sup> These Rules were published under Department of Industries and Labour (Electricity) Notification No. S. 601 dated the 27th March, 1937 as amended by Notification No. S. 601 dated the 29th March, 1937.

<sup>2</sup> Vide Central Electricity Board Notification No. S. R. O. 1701 dated the 3rd Oct., 1952.

<sup>3</sup> See now the Mines Act, 1952.



**3. Authorization.**—(1) A licensee, a non-licensee or a consumer or the owner, agent or manager of a mine, or the agent of any company operating in an oil field or the owner of a drilled well in an oil-field or a contractor for the time being under contract with a licensee, a non-licensee or a consumer to carry out duties incidental to the generation, transformation, distribution or use of energy may authorise any person for the purpose of any or all of the following rules, namely, rules 43, 60, 64 (1), 96 (2), 106 (1), 108 (4) and 109.

(2) No person shall be authorised under sub-rule (1) unless he is competent to perform the duties specified in the rules for the purpose for which he is authorised.

(3) No person shall be deemed to be authorised under sub-rule (1) unless his name has been entered in a list maintained at the office or premises of the person authorising him, and giving the purposes for which such person is authorised and the entry has been attested by the person authorising him

(4) Every list maintained under sub-rule (3) shall be produced before an Inspector when required.

#### CHAPTER X.—ADDITIONAL PRECAUTIONS TO BE ADOPTED IN MINES AND OIL-FIELDS

**95. Application of Chapter.**—(1) The rules in this Chapter apply only—

(a) where energy is used in mines where the provisions of Part III of the Act apply; and

(b) where energy is used in oil-fields.

(2) In mines the rules in this Chapter do not apply to apparatus used above ground, excepting such apparatus as may directly affect the safety of persons below ground

**96. Responsibility for observance.**—(1) It shall be the duty of the owner, agent, or manager of the mine, or of the agent of any company operating in the oil-field, or of the owner of one or more drilled wells situated in the oil-field, to comply with and enforce the following rules and it shall be the duty of all persons employed to conduct their work in accordance with the rules.

(2) An authorised person shall be on duty in every mine or oil field while energy is being used therein

**97. Notices.**—(1) On or before the first day of February in every year in every oil-field returns giving the size and type of apparatus and any particulars as to the circumstances of its use which may be required by the Inspector shall be sent by the persons specified in rule 96 in the form set out in Annexure IX.

(2) This rule does not apply to telephones and signalling apparatus or to low pressure installations for lighting only.

**98. Plans.**—(1) A correct plan on the same scale as the plan kept at the mine in fulfilment of the requirements of the Indian Mines Act, 1923<sup>a</sup>, shall be kept in the office at the mine showing the position of all fixed apparatus and conductors in the mine, other than lights, telephones or signalling apparatus, or cables for the same.

(2) A similar plan, on a scale of not less than sixteen inches to the mile shall be kept by the manager or owner of one or more wells in any oil-field showing similar particulars.

(3) A similar plan, on such scale as the Central Government may require, shall be kept in the office of the licensee or person transmitting or distributing energy in a mine or oil-field, showing the position of all electric supply lines under his control.

(4) The plans required by this rule shall be corrected every six months, and the dates of correction entered on them by the manager of the mine or wells or the owner of the wells, and they shall be produced to an Inspector or an Inspector of mines at any time on his request.

**99. Lighting, communications and fire precautions.**—(1) In a mine lighted by electricity, one or more safety lamps or other proper lights shall be kept continuously burning in all places where failure of the electric light at any time would be likely to cause danger.

(2) Efficient means shall be provided in every mine for communicating between the place in which the switchgear provided under sub-rule (1) of rule 106 is erected and the shaft-bottom or main distributing centre in the mine.

(3) Appliances for extinguishing fires shall be kept ready for immediate use in every place in a mine containing apparatus, other than cables, telephones and signalling apparatus.

**100. Isolation and fixing of transformer switchgear, etc.**—(1) Where necessary to prevent danger or mechanical damage transformers and switchgear shall be placed in a separate room, compartment or box.

(2) Unless the apparatus is so constructed, protected, and worked as to obviate the risk of fire no inflammable material shall be used in the construction of any room, com-

partment, or box containing apparatus, or in the construction of any of the fittings therein. Each such room, compartment or box shall be substantially constructed and shall be kept dry.

(3) Adequate working space and means of access clear of obstruction and free from danger shall, so far as circumstances permit, be provided for all apparatus that has to be worked or attended to, and all handles intended to be operated shall be conveniently placed for that purpose.

**101. Method of Earthing.**—Where earthing is necessary it shall be carried out in a mine by connection to an earthing system at the surface of the mine, in a manner approved by an Inspector.

**102. Earth or fault detector.**—(1) Earth or fault detectors or recorders shall be connected up in every system in a mine to show immediately any defect in the insulation of the system.

(2) The readings of these instruments shall be recorded daily in a book kept at the generating station, sub-station or switch room.

**103. Earthing metal, etc.**—(1) All metallic sheaths, coverings, handles, joint-boxes, switchgear frames, instrument covers, switch and fuse covers and boxes, and all lampholders, unless efficiently protected by an earthed or insulating covering made of fire-resisting material and the frames and bedplates or generators, transformers, and motors (including portable motors), shall be earthed by connection to an earthing system in the manner prescribed in rule 101.

(2) Where the cables are provided with a metallic covering constructed and installed in accordance with clause (d) of rule 107, such metallic covering may be used as a means of connection to the earthing system.

(3) All the conductors of an earthing system shall have a conductivity at all parts and at all joints at least equal to 50 per cent. of that of the largest conductor used solely to supply the apparatus a part of which it is desired to earth:

Provided that no conductor of an earthing system shall have a cross-sectional area of less than .022 of a square inch.

(4) All joints in earth conductors and all joints to the metallic covering of the cables shall be properly soldered or otherwise efficiently made.

(5) No switch, fuse, or circuit breaker shall be placed in any earth conductor.

(6) This rule shall not apply (except in the case of portable apparatus) to any system in a mine in which the pressure does not exceed low pressure direct current or 125 volts alternating current.

**104. Motors and their transformers.**—(1) Where energy is distributed at a pressure higher than medium pressure;

(i) it shall not be used without transformation to medium or low pressure except in fixed machines in which the high pressure parts are stationary; and

(ii) motors under 20 H.P. shall be supplied through a transformer stepping down to medium or low pressure.

(2) Where energy is transformed, suitable provision shall be made to guard against danger by reason of the lower pressure apparatus becoming accidentally charged above its normal pressure by leakage from or contact with the higher pressure apparatus.

**105. Switchgear and Terminals.**—Switchgear and all terminals, cable-ends, cable-joints and connections of apparatus shall be totally enclosed, and shall be so constructed and installed as to comply with the following requirements:

(i) all parts shall be of mechanical strength sufficient to resist rough usage;

(ii) all conductors and contact areas shall be of ample current carrying capacity and all joints in conductors shall be properly soldered or otherwise efficiently made;

(iii) the lodgment of any matter likely to diminish the insulation or affect the working of any switchgear shall be prevented;

(iv) all live parts shall be so protected or enclosed as to prevent persons accidentally coming into contact with them and danger from arcs, short circuits, fire, water, gas or oil;

(v) where there may be risk of igniting gas, coal-dust, oil or other inflammable material, all parts shall be so protected as to prevent open sparking; and

(vi) every switch or circuit-breaker shall be capable of opening the circuit it controls, without danger, or any short circuit with which it may have to deal.

**106. Cutting off supply.**—(1) Properly constructed switchgear for cutting off the supply of energy to the mine or oil-field shall be provided at the surface of the mine or oil-field at a point approved by an Inspector, and, during the time any cable is live, a person authorised to operate the said switchgear shall be available within easy reach thereof.

(2) Efficient means, suitably placed, shall be provided for cutting off all pressure from every part of a system, when necessary, to prevent danger.

(3) Such efficient means shall be provided for cutting off all pressure automatically from the part or parts of the system affected in the event of a fault as may, in the opinion of an Inspector, be necessary to prevent danger.

(4) Every motor shall be controlled by switchgear for starting and stopping, so arranged as to cut off all pressure from the motor and from all apparatus in connection therewith, and so placed as to be easily worked by the person appointed to work the motor.

107. **Cables.**—All cables, other than flexible cables for portable apparatus shall comply with the following requirements:—

- (a) they shall be covered with insulating material (except that the outer conductor of a concentric system may be bare). They shall be efficiently protected from mechanical damage and supported at sufficiently frequent intervals and in such a manner as adequately to prevent damage to the cables or danger;
- (b) (i) except as provided in clause (c), no cables other than concentric cables, or two-core cables or multi-core cables protected by a metallic covering, or single-core cables which contain all the conductors of circuit, shall be used
  - (1) where the pressure exceeds low pressure direct current or 125 volts alternating current, or
  - (2) when an Inspector considers that there is risk of igniting coal-dust or other inflammable material, and so directs; and
- (ii) the lead sheath of lead sheathed cables and the iron or steel armouring of armoured cables respectively shall be of a thickness not less than that recommended from time to time by the British Standards Institution;
- (c) where the medium pressure direct current system is used two single-core cables may be used for any circuit, if their metallic coverings are bonded together by earth conductors so placed that the distance between any two consecutive bonds is not greater than 100 feet measured along either cable;
- (d) the metallic covering of every cable shall be—
  - (i) electrically continuous throughout;
  - (ii) earthed, if it is required by sub-rule (1) of rule 103 to be earthed by a connection to the earthing system of not less conductivity than the same length of the said metallic covering;
  - (iii) efficiently protected against corrosion where necessary;
  - (iv) of a conductivity at all parts and at all joints at least equal to 50 per cent. of the conductivity of the largest conductor enclosed by the said metallic covering; and
  - (v) where there may be risk of igniting gas, coal dust, or other inflammable material, so constructed as to prevent, as far as is practicable, the occurrence of open sparking as the result of any fault or leakage from live conductors:

Provided that, where two single-core cables protected by metallic covering bonded together in accordance with clause (c) of this rule are used for a circuit, the conductivity of each of the said metallic coverings at all parts and at all joints shall be at least equal to 25 per cent of the conductivity of the conductor enclosed thereby;

- (e) cables and conductors where joined up to motors, transformers, switchgear and other apparatus, shall be installed so that—
  - (i) they are mechanically protected by securely attaching the metallic covering to the apparatus; and
  - (ii) the insulating material at each cable end is efficiently sealed so as to prevent the diminution of its insulating properties.

Where necessary to prevent abrasion or to secure gas-tightness there shall be properly constructed glands or bushes; and

- (f) unarmoured cables or conductors, shall be either conveyed in pipes or casings or suspended from efficient insulators by means of some non-conducting material which will not cut the covering and which will prevent contact with any timbering or metal work. If separate uncased wires are used, they shall be kept at least one and a half inches apart and shall not be brought together except at lamps switches, and fittings.

108. **Flexible Cables.**—(1) Flexible cables for portable apparatus shall be two-core or multi-core unless they are required for electric welding, and shall be covered with insulating material which shall be efficiently protected from mechanical damage. If a flexible metallic covering is used either as the outer conductor of a concentric system or as a means of protection from mechanical damage, it shall not be used by itself to form an earth conductor

for the portable apparatus, but it may be used for that purpose in conjunction with an earthing core.

(2) Every flexible cable for portable apparatus shall be connected to the system and to the portable apparatus by a properly constructed connector.

(3) At every point where flexible cables are joined to main cables a switch shall be provided which is capable of entirely cutting off the pressure from the flexible cables.

(4) Every flexible cable attached to a portable machine shall be examined periodically by the person authorised to work the machine, and, if such cable is used underground, he shall examine it at least once in each shift. If such cable is found to be damaged or defective, it shall forthwith be replaced by a spare cable in good condition, and shall not again be used until it has been properly repaired.

**109. Portable machines.**—The person authorised to work an electrically driven coal-cutter or other portable machine shall not leave the machine while it is working and shall, before leaving the place where such machine is working, ensure that the pressure is cut off from the flexible trailing cable which supplies such machine. Trailing-cable shall not be dragged along by the machine when working.

**110. Sundry precautions.**—(1) All apparatus shall be kept clear of obstruction and free from dust, dirt and moisture.

(2) Inflammable or explosive material shall not be stored in any room, compartment, or box containing apparatus, or in the vicinity of apparatus.

(3) Should there be a fault in any circuit, the part affected shall be made dead without delay, and shall remain so until the fault has been remedied.

(4) While lamps are being changed the pressure shall be cut off.

(5) No lamp holder shall be in metallic connection with the guard or other metal work of a portable lamp.

**III. Precautions where gas exists.**—(1) In any part of a mine or oil-field in which inflammable gas or vapour, whether normally present or not, is likely to occur in quantity sufficient to be indicative of danger, and in any working approaching such part, the following additional requirements shall be satisfied as regards all apparatus:—

(a) all cables, apparatus, signalling wires, and signalling instruments shall be so constructed, installed, protected, worked and maintained, that in the normal working thereof there shall be no risk of open sparking;

(b) all motors shall be so constructed that when any part is live, all rubbing contacts (such as commutators and slip-rings) are so arranged or enclosed as to prevent open sparking;

(c) the pressure shall be cut off the apparatus immediately if open sparking occurs, and during the whole time that examination or adjustment disclosing parts liable to open sparking is being made. The pressure shall not be switched on again until the apparatus has been examined by the electrician or one of his duly appointed assistant and the defect, if any, has been remedied or the adjustment made;

(d) every electric lamp shall be enclosed in an air-tight fitting, and the lamp globe shall be hermetically sealed; and

(e) a safety lamp shall be provided and kept continually burning near each motor when working, and should the appearance of the flame of such safety lamp indicate the presence of inflammable gas, the pressure shall be cut off immediately from all apparatus in the vicinity and the matter shall be reported forthwith to an official of the mine.

(2) If at any time in any place the percentage of inflammable gas in the general body of the air is found to exceed one and a quarter the supply of energy shall be cut off immediately from all cables and apparatus in that place and shall not be recommended so long as the percentage of inflammable gas exceeds that amount.

**112. Short firing.**—(1) When shot firing is being carried on adequate precautions shall be taken to protect conductors and apparatus from injury.

(2) Current from lighting or power circuits shall not be used for firing shots.

(3) Shot firing cables shall be covered and protected as provided by rule 108 for flexible cables. Adequate precautions shall be taken to prevent them from touching other cables and apparatus.

**113. Signalling.**—Where electrical signalling is used:—

(a) adequate precautions shall be taken to prevent signal and telephone wires from touching cables and other apparatus;

(b) the pressure used in any one circuit shall not exceed 25 volts; and

(c) contact makers shall be so constructed as to prevent the accidental closing of the circuit.

**114. Haulage.**—Haulage by electric locomotives on the overhead trolley-wire system, at pressures not exceeding medium, and haulage by storage battery locomotives, may be used with the prior consent in writing of an Inspector, and subject to such conditions affecting safety as he may impose.

**115. Supervision.**—(1) An electrician shall be appointed in writing by the owner, agent or manager of the mine or by the agent or the owner of one or more wells in an oil-field to supervise the apparatus. If necessary for the proper fulfilment of the duties detailed in this rule one or more assistants to the electrician shall be appointed by the aforesaid authority.

(2) Every person appointed to work, supervise, examine, or adjust any apparatus shall be competent for the work that he is set to do. No person except the electrician, or a competent person acting under his supervision shall undertake any work where, in order adequately to avoid danger, technical knowledge or experience is required.

(3) The electrician shall be responsible for the proper performance by himself or by an assistant appointed under sub-rule (1) of the following duties, namely:—

(i) the thorough examination of all apparatus (including the testing of earth conductors and metallic coverings for continuity) as often as may be necessary to prevent danger; and

(ii) the examination and testing of all new apparatus, and of all apparatus re-erected in the mine before it is put into service in a new position.

(4) In the absence of the electrician for more than three days the owner, agent or manager of the mine or the agent or owner of one or more oil-wells in an oil-field shall appoint in writing an efficient substitute.

(5) The electrician or the substitute appointed for him, under sub-rule (4), shall keep at the mine or oil field a log-book made up of daily log-sheets kept in the form set out in Annexure X. The log book shall be produced at any time on request to an Inspector of Mines or an Inspector.

**116. Exemptions.**—The provisions of rules 96 to 113 both inclusive and 115, shall not apply in any case in which exemption is obtained, on such conditions as he may prescribe, from an Inspector, on the ground either of emergency or special circumstances.

#### CHAPTER XI—MISCELLANEOUS

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**120 Responsibility of Agents and Managers.**—Where any person is responsible for the observance of any of these rules, every agent and manager of such person shall also be responsible for such observance in respect of matters under their respective controls.

#### Annexure IX—Form of Annual Return for Oil-fields.

(SEE RULE 97).

This form must be correctly filled up by the owner, agent or manager, and sent to the Inspector not later than the first day of February 19 .

#### PART A

Year ending 19 .

Name of Oil-field

Situation of Oil-field } District  
                                      } State

Postal address of Oil-field

Name and address of owner

Name of Manager

Name of Under Manager

## PART B

## Type and Horse-power of Electrical Apparatus.

- 1.—System of Supply (whether direct current or alternating current).  
Voltage of Supply  
Periodicity (if alternating current)  
Source of Supply
- 2.—Voltage at which current is used for—  
Lighting  
Power
- 3.—Particulars of Motors, etc., in use on the Oil field.

## (a) On wells

No. or other identifying mark of well	Drilling or pumping	H.P. of Motor	No. of lamps and type	Other electrical appliances
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## (b) Not on wells

H. P. of Motor	Purpose for which used	Identifying mark on map
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- 4.—Other electrical appliances, not included in item 3, in use on the Oil field.

Appliances	Size in K. W.	Purpose for which used	Identifying mark on map
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## Annexure X—Log Sheet for Mines and Oil-fields.

[SEE RULE 115 (5)]  
Daily Log Sheet for

1. Name of electrician in charge:—
2. Report as to:—
  - (a) Condition of the insulation of the system:—
  - (b) Specific defects of insulation (particulars of each failure of apparatus should be given):—
  - (c) Accidents or dangerous occurrence (including any cases of electric shock and any cases of open sparking in apparatus in use in places where rule 111 applies:—
  - (d) Examinations\* of apparatus as provided by rule 115:—
    - (i) Routine examinations as required by rule 115 (3) (i).
    - (ii) Special examinations\* as required by rule 115 (3) (ii).
3. Remarks:—

Signed  
Examined by

Electrician  
Manager

NOTE.—This log sheet should be filled in as completely as possible. If, for instance there are no defects of insulation to report, the word "none" should be written in the vacant space.

\* State which apparatus has been examined or tested and result.

## ESTABLISHMENT LEGISLATION

### Hours of Work in Shops and Commercial Establishments.

The International Labour Convention No. 30 regulating hours of work in commerce and office was adopted in 1930. At the First Conference of Labour Ministers held in 1940, it was suggested that the Central Government should consider the question of legislation authorising State Governments to provide for the compulsory closing of shops and commercial establishments for a minimum period in each week. The Weekly Holidays Bill was drafted after consulting the State Governments and after further discussion at the Second Conference of Labour Ministers held in January 1941 and the Act was passed in 1942.

### Weekly Holidays Act, 1942 (XVIII of 1942)

The Weekly Holidays Act, 1942 is permissive in character and becomes effective in a State or in a specified area within a State, only if the State Government by notification in the official Gazette chooses to apply it. The Act provides for a weekly closure of shops and for grant of one paid weekly holiday for every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre. State Governments are empowered further to grant additional holiday with pay for one half-day a week. At present it applies to Orissa, Rajasthan, Ajmer, Coorg and Vindhya Pradesh, all other States having enacted their own legislations.

### State Legislations relating to Shops and Commercial Establishments.<sup>1</sup>

Legislations concerning shops and commercial establishments providing holidays with pay were first undertaken in Bombay in 1939, in Bengal and Punjab in 1940. Madhya Pradesh, Uttar Pradesh and Madras Governments also passed legislations in 1947. The Assam and Mysore Governments enacted similar legislations in 1948. The Bombay Government after enquiry into the working of the 1939 Act passed a comprehensive measure in 1949. Subsequently legislations were undertaken in Travancore-Cochin in 1949, Hyderabad in 1951, Madhya Bharat in 1952 and in Bihar in 1953. The Punjab Act was enforced in Himachal Pradesh in 1951. In 1949 the Government of Saurashtra adopted the Bombay Act of 1939 and enforced it in the State with effect from 7th June, 1949. The PEPSU Government applied the Patiala Trade Employees Act, 1947 to that State. The Central Government applied the Bengal Shops & Establishments Act 1940 to Tripura with certain modifications by a notification dated the 7th April, 1953. The Punjab Act was extended to Delhi in 1942 but subsequently Delhi Shops and Establishments Act was passed in 1954.

All Acts apply to wage earners employed in shops, commercial establishments (including insurance and banking firms), restaurants, theatre, cinema and other places of public amusements in certain selected urban centres, but Government can extend the Act by notification. All Acts contain provisions in respect of opening and closing hours, hours of work (daily, weekly or monthly), rest intervals, spread

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<sup>1</sup>Part A States—(1) Assam Shops & Establishments Act, 1948, (2) Bengal Shops & Establishments Act, 1940; (3) Bihar Shops & Establishments Act, 1953; (4) Bombay Shops & Establishments Act, 1948; (5) Central Provinces and Berar Shops & Establishments Act, 1947; (6) Madras Shops & Establishments Act, 1947; (7) Punjab Trade Employees Act, 1940; (8) Uttar Pradesh Shops & Commercial Establishments Act, 1947.

Part B States—(1) Madhya Bharat Shops & Establishments Act, 1952; (2) Mysore Shops & Establishments Act, 1948; (3) Patiala Trade Employees Act, 1947; (4) Travancore-Cochin Shops & Establishments Act, 1952; (5) Hyderabad Shops & Establishments Act, 1951.

Part C States—Delhi Shops & Establishments Act, 1954.

over, overtime rate, weekly holidays and leave to employees. Some Acts include special provisions for the protection of children and young persons. Employees working in a confidential capacity or whose work is of an intermittent character, are excluded from the scope of the Acts.

### **Central Legislation for Shops and Commercial Establishments.**

In the Five-year Labour Programme, the Central Government desired to have a Central legislation for regulating working conditions in shops and commercial undertakings. The proposed law would be fairly comprehensive in its scope and would ensure uniformity in application in all States. It will be applicable in the first instance to municipal areas and will cover persons employed in commercial and trading undertakings, office sections of factories, restaurants, eating houses, theatres and other places of public amusement and will regulate hours of work, intervals, rest periods, spread over, opening and closing hours, weekly holidays, holidays with pay, payment of wages, cleanliness of the premises and lighting. It will also contain provisions regarding employment of young persons. This proposal was considered and approved by the Standing Labour Committee in their Ninth Meeting held on the 25th and 26th July, 1946.

The question of enacting a Central legislation for shops and commercial establishments was again discussed in the 13th Meeting of the Standing Labour Committee held in New Delhi on the 27th and 28th July, 1953. It was decided that the Central Government should initiate legislation as a standard to which the States would have to conform. Such standards would be in the nature of a minimum so that those States whose standards were in fact more liberal could retain them. Summing up the discussion, Sri V. V. Giri, Labour Minister stated that if a State legislation confronted to the standards prescribed by the Central law in all important respects, it was not necessary to apply the Central law to that State; if a State law did not conform to those standards, it should either amend its law to correspond to the standards of the Central law or come under the jurisdiction of the Central law. The draft Bill prepared and previously circulated to different organisations, is being scrutinised for introduction in the Lok Sabha.

## **WEEKLY HOLIDAYS ACT, 1942 (XVIII OF 1942)**

### **Statement of Objects and Reasons<sup>1</sup>**

It was suggested at the First Conference of Labour Ministers held in January, 1940, that the Central Government should consider the question of passing an enabling measure giving Provincial Governments power by notification to provide for the compulsory closing of shops and commercial establishments for a minimum period of one day in the week, leaving it to the Provincial Governments to provide an extra half-holiday if they considered it necessary. The present Bill has been drafted after consultation with Provincial Governments, and further discussion at the Second Conference of Labour Ministers held in January, 1941. The Bill will not come into effect in any Province until the Government for that Province directs its application by notification, either to the whole Province or any specified area within it. A further notification of the Provincial Government will be necessary to bring into application the provisions about an extra half holiday. It is considered desirable that Provincial Governments should have power to introduce by notification certain minimum provisions on uniform lines as embodied in the Bill. The Bill provides for payment of wages for holidays declared under it. Certain classes of persons and establishments are excluded from its purview. It proposes to leave power with the Central Government in respect of establishments under its control and with Provincial Governments in respect of all other establishments within the Province, to make exceptions from or temporary suspension of the provisions of the proposed Act.

<sup>1</sup> Gazette of India, 1941, Part V, page 142.



# WEEKLY HOLIDAYS ACT, 1942 (XVIII OF 1942)

## Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Closing of shops.
4. Weekly holidays in shops, restaurants and theatres.
5. Additional half-day closing or holiday.
6. No deduction or abatement to be made from wages.
7. Inspectors.
8. Powers of Inspectors.
9. Penalties.
10. Rules.
11. Power of exemption and suspension.

## WEEKLY HOLIDAYS ACT, 1942 (XVIII OF 1942)<sup>1</sup>

*An Act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres*

[3rd April, 1942.]

Whereas it is expedient to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Weekly Holidays Act, 1942.

(2) It extends to <sup>2</sup>[the whole of India except Part B States].

(3) It shall come into force in a <sup>3</sup>[State] or in a specified area within a <sup>3</sup>[State] only if the <sup>4</sup>[State] Government by notification in the official Gazette so directs.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “ establishment ” means a shop, restaurant or theatre;

(b) “ day ” means a period of twenty-four hours beginning at midnight;

(c) “ restaurant ” means any premises in which is carried on principally or wholly the business of supplying meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre;

(d) “ shop ” includes any premises where any retail trade or business is carried on, including the business of a barber or hair dresser, and retail sales by auction, but excluding the sale of programmes, catalogues and other similar sales at theatres;

(e) “ theatre ” includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances or stage entertainments;

(f) “ week ” means a period of seven days beginning at midnight on Saturday.

**3. Closing of shops.**—(1) Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop keeper in a notice permanently exhibited in a conspicuous place in the shop.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 142; and for Report Select Committee, see *ibid.*, 1942, Pt. V, p. 55; see also p. 147 ante.

<sup>2</sup> Substituted by the Adaptation of Laws Order, 1950 for “all the Provinces of India”.

<sup>3</sup> Substituted, *ibid.*, 1950 for “Province”.

<sup>4</sup> Substituted, *ibid.*, for “Provincial”.

(2) The day so specified shall not be altered by the shop-keeper more often than once in three months.

**4. Weekly holidays in shops, restaurants and theatres.**—Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day:

Provided that nothing in this section shall apply to any person whose total period of employment in the week including any days spent on authorised leave is less than six days or entitle to an additional holiday a person employed in a shop who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of section 3.

**5. Additional half-day closing or holiday.**—(1) The <sup>5</sup>[State] Government may, by notification in the official Gazette, require in respect of shops or any specified class of shops that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day provided for by section 3 as may be fixed by the <sup>5</sup>[State] Government, and in respect of theatres and restaurants or any specified class of either or both, that every person employed therein otherwise than in a confidential capacity or in a position of management shall be allowed in each week an additional holiday of one-half-day commencing at such hour in the afternoon as may be fixed by the <sup>5</sup>[State] Government.

(2) The <sup>5</sup>[State] Government may, for the purposes of this section, fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(3) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (1) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop and shall not be altered by the shop-keeper more often than once in three months.

**6. No deduction or abatement to be made from wages.**—No deduction or abatement of the wages of any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed in accordance with sections 3, 4 and 5, and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day he shall none the less be paid for such day or part of a day the wages he would have drawn had the establishment not remained closed or the holiday not been allowed on that day or part of a day.

**7. Inspectors.**—(1) The <sup>5</sup>[State] Government may, by notification in the official Gazette, appoint persons to be Inspectors for the purposes of this Act within such local limits as it may assign to each such person.

(2) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, (XLV of 1860).

**8. Powers of Inspectors.**—(1) Subject to any rules made in this behalf by the <sup>5</sup>[State] Government, an Inspector may, within the local limits for which he is appointed,—

(a) enter and remain in any establishment to which this Act applies with such assistants, if any, being servants of the <sup>6</sup>[Government] as he thinks fit;

<sup>5</sup> Substituted by the Adaptation of Laws Order, 1950 for "Provincial".

<sup>6</sup> Substituted, *ibid*, for "Crown".

(b) make such examination of any such establishment and of any record, register or notice maintained therein in pursuance of rules made under clause (c) of sub-section (2) of section 10, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act;

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act.

(2) Any person having the custody of any record, register or notice maintained in pursuance of rules made under clause (c) of sub-section (2) of section 10 shall be bound to produce it when so required by the Inspector, but no person shall be compellable to answer any question if the answer may tend directly or indirectly to criminate himself.

**9. Penalties.**—In the event of any contravention of the provisions of section 3, or section 4, of a requirement imposed by notification under sub-section (1) of section 5, of section 6, or of the rules made under clause (c) of sub-section (2) of section 10, the proprietor or other person responsible for the management of the establishment in which such contravention takes place shall be punishable with fine which may extend, in the case of the first offence, to twenty-five rupees, and, in the case of a second or subsequent offence, to two hundred and fifty rupees.

**10. Rules.**—(1) The <sup>7</sup>[State] Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) define the persons who shall be deemed to be employed in a confidential capacity or in a position of management for the purpose of sections 4 and 5;

(b) regulate the exercise of their powers and the discharge of their duties by inspectors;

(c) require registers and records to be maintained and notices to be displayed in establishments to which this Act applies and prescribe the form and contents thereof.

**11. Power of exemption and suspension.**—The Central Government in respect of establishments under its control, and the <sup>7</sup>[State] Government in respect of all other establishments within the <sup>8</sup>[State] may, subject to such conditions if any, as it thinks fit to impose, exempt any establishment to which this Act applies from all or any specified provisions of this Act, and may, on any special occasion in connection with a fair or festival or a succession of public holidays, suspend for a specified period the operation of this Act.

<sup>7</sup> Substituted by the Adaptation of Laws Order, 1950 for "Provincial"

<sup>8</sup> Substituted, *ibid.*, for "Province."

# PLANTATION LEGISLATION



## PLANTATION LEGISLATION

### Early legislation

Plantation legislation began to develop in India in connection with the tea industry in Assam. Owing to the scarcity of labour in that Province, workers had to be imported from other Provinces and the character of these workers were thus migratory. The early legislative measures were more protective of the planters than of their workers. The Workmens' Breach of Contract Act, 1859 (VIII of 1859), the Employers and Workmens' (Disputes) Act, 1860 (IX of 1860) and Sections 490 and 492 of the Indian Penal Code, 1860, which regulated the condition of employment of plantation labour, made it a penal offence for a worker for breach of contract of service. In compliance with the recommendation of the Assam Labour Committee, the Government of India passed an Act in 1925<sup>1</sup> repealing the Workmens' Breach of Contract Act, 1859 (VIII of 1859) and Sections 490 and 492 of the Indian Penal Code, 1860. The new Act came into force on 1st April 1926 and took a forward step in abolishing penal contract.

### Madras and Coorg Acts

The Madras Planters' Act of 1903 also introduced a penal provision to protect the planters from loss of advances given to the workers. The Coorg Labour Act, 1926 contained similar penal provision. The Madras Act was repealed in 1929 and the Coorg Act came to an end in 1931.

### Assam Labour and Emigration Act, 1901 (VI of 1901)

All legislative measures so far undertaken to secure labour from different Provinces instead of solving the problem of adequate labour supply, created various difficulties and gave rise to a system of indentured labour. These legislative measures were more protective of planters than of labour.

The first legislation which gave some degree of protection to plantation labour was passed in 1901. The Commission of Enquiry appointed by the Government of Bengal in 1895 criticised the abuses in connection with the prevailing system of recruitment and recommended several measures. Assam Labour and Emigration Act was passed by the Government of India on the basis of these recommendations in 1901 (VI of 1901) extending it to Bengal, Assam, Central Provinces, North-West Frontier Province, Oudh (United Provinces) and the District of Ganjam in Madras. The Provincial Government with the sanction of the Central Government could extend it within their respective provinces. The Act prohibited the recruitment of labour except through licensed contractors. Regulations were thus laid down for control of labour supply to tea gardens. The Act was amended in 1908 (XI of 1908) abolishing the system of penal contract for new recruits except in the recruiting districts and prohibiting recruitment by unlicensed contractors and the right of arrest of workers by planters. The Act was further amended in 1915 abolishing the system of indentured labour in Assam Valley and recruitment by all sorts of contractors. The Act provided for the establishment of Assam Labour Board for supervision of recruitment by tea-garden sirdars.

### Jalpaiguri Labour Act, 1912

Jalpaiguri Labour Act, 1912, provides for keeping of registers and submission of returns by employers about health, sickness and mortality of the workers within

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<sup>1</sup> The Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925).

the District. An annual report about sickness and medical services among the workers in the Dooars has also to be submitted by the Civil Surgeon, Jalpaiguri.

### **Tea Districts Emigrant Labour Act, 1932 (XXII of 1932)**

The Assam Labour and Emigration Act of 1901 though amended in 1908 and 1915 proved inadequate for regulation of recruitment and was unintelligible to the common people. The Government of India took steps for further amendment and drafted Assam Recruitment Bill in 1928, but postponed further action on the appointment of Royal Commission on Labour. The Commission found the Act of 1901 open to several objections and recommended the enactment of a new law with the object of (1) freer movement of labour, (2) greater security for labourers and (3) better administration of law. On the basis of these recommendations, the Tea Districts Emigrant Labour Act was passed in 1932 (XXII of 1932) which came into force on 1st October 1933. The Act repealed the Assam Labour and Emigration Act 1901 (VI of 1901) and thus removed the last vestige of penal contract from the statute book.

### **Main Provisions of Act XXII of 1932**

The object of the Act is to regularise the condition of recruitment of plantation labour in the tea gardens of Assam. The Act provides for the appointment of a Controller of Emigrant Labour and the inspecting staff whose duty is to enforce the provisions of the Act and to safeguard the rights and interest of emigrant labour during their stay in the tea estate and during journey to and from the estate to their homes. The Central Government is authorised to levy a cess on recruitment to defray the expenses of the Controller and his staff. The Act empowers the Provincial Government, subject to the control of the Central Government, to declare an area to be controlled emigration area and thereafter an assisted emigrant (a new recruit proceeding to Assam to work as a labourer in tea plantation through the assistance of another person) may be forwarded to Assam by a licensed forwarding agent acting on behalf of an employer. Such assisted recruits can be sent only by prescribed routes where feeding and accommodation arrangements have been made by the agents. The Act also empowers the Provincial Government, with the concurrence of Central Government to declare any controlled emigration area or any part of it to be restricted recruiting area. In such case recruitment can be made only by licensed recruiters or certified garden sirdars. The Provincial Government's powers to declare controlled emigration areas and restricted recruiting areas now vest in the Central Government under the Adaptation Order of 1937. Every emigrant labourer is entitled to repatriation to his own place at the expense of the employer after completing three years' service or even earlier under certain circumstances. He may also postpone the exercise of his right of repatriation or may waive it. The family of a deceased worker enjoys similar rights. Children under 16 must not migrate unless accompanied by parents or guardians and married woman without the consent of her husband. Infringement is punishable with imprisonment which may extend to six months or a fine of Rs. 500/- or both. The Act does not contain any provision regulating accommodation, sanitation, water supply, medical treatment, wages, hours of work, educational facilities, rest, recreation and other welfare arrangements for workers employed in tea estate. The Act is, strictly speaking, not a labour legislation but is really an emigration legislation.

### **Administration**

The Act is administered by the Controller of Emigrant Labour appointed by the Central Government, whose main functions are supervision of recruitment and repatriation of emigrant labourers. He has no control over conditions of labour

and life in tea gardens in Assam. The Controller publishes an annual report on the working of the Act. Statistics for the year ending 30th September 1946 shows that there were 1,144,439 emigrant labourers in Assam, of whom 584,222 were adults and 560,217 children. Of these 44,574 were new recruits during the year, 26,814 repatriated and 11,733 postponed their rights. The major portion of Sylhet having acceded to Pakistan in 1947, the total emigrant labour population was reduced to 966,057 for the year ending 30th September, 1947, of these 492,749 were adults and 473,308 children. The number of new recruits during that year was 43,007, 21,047 persons were repatriated and 13,675 labourers postponed their right of repatriation.

### **Defects of the Act and Government's Five-year Labour Programme**

Next to factories, the plantation industries are the largest employers of labour. The existing Act is not actually a piece of labour legislation as it does not regulate working conditions in tea plantation; but it is really an emigration legislation.

Great majority of the plantation workers are not covered by the Act. The Controller of Emigrant Labour has no control over conditions of labour and life in the tea gardens in Assam. Plantations in India are thus practically immune from any legislative control regarding the regulation of working conditions. Plantation labour also does not at present come under any existing labour legislation excepting the Workmen's Compensation Act. The provisions for regulating the conditions of work of plantation labour exist in Cochin State only. The Reports of the Labour Investigation Committee<sup>2</sup> show that in plantations (1) wages are inadequate (2) housing conditions are unsatisfactory and (3) medical and welfare services require substantial improvement and expansion. The Committee suggested the enactment of a separate Plantation Labour Code for the whole of India as the conditions of life and employment on plantations are quite different from those in other industries.

Under the Five-year Labour Plan, the Government of India undertook to adopt measures for improvement of wages and living conditions of these workers. A conference of the representatives of Provincial and State Governments, employers and workers was convened to chalk out a programme of action for bringing about the much needed improvements in the conditions of plantation workers. Legislation will be undertaken to give effect to the agreed policy and to provide for inspection by health authorities. An Industrial Committee on Plantation was set up by the Government to consider the problems of plantation industry.

### **Steps for New Plantation Labour Code**

#### **Industrial Committee on Plantation: First Meeting**

A Tripartite Conference of the representatives of Provincial Governments, employers and workers in Tea Plantation Industry was held on the 8th and 9th January 1947, at New Delhi to consider the special problems affecting tea plantation labour and to decide what specific measures should be taken to secure a living wage and reasonable conditions of work. As a result of discussions, it was agreed that a rapid enquiry into the Cost and Standard of Living of Plantation workers in Assam, Bengal and South India should be conducted by the Government in collaboration with the industry to enable the Committee to fix fair rate of wages for the workers. Pending the enquiry the employers in Assam and Bengal agreed to certain minimum increase in dearness allowance to the workers. As a result, the dearness allowance was increased to 2 annas per day for every adult worker and one anna per day for every child worker in the hazira rate and to 25 per cent

<sup>2</sup> Main Report and Mr. Rege's Report on Plantation.



for monthly rated workers. Maternity benefit was increased to 12 annas a day for a period of 8 weeks and sickness benefit was fixed at 10 annas a day for a maximum period of 2 weeks a year. The Conference agreed that the Government should prescribe and enforce standards regarding housing and medical services for plantation labour and the employers should submit their proposals to the Government through the Provincial Governments and that the matters should be discussed in the next Conference. The extension of Primary Education Act to plantation areas and the necessity of organising welfare activities were also discussed. The Conference unanimously recommended that a special Plantation Labour Act should be enacted to secure the above objectives. It was also decided that the Plantation Labour Conference should be made a permanent body and the conference should consider major problems affecting all plantation labour whether of tea, rubber, coffee or other products, leaving the specific problems regarding each section for detailed consideration of the appropriate Advisory Committee. It was also agreed that a small Standing Committee should be constituted which could meet at non-frequent intervals and advise the Government on the problems referred to it.

### Second Meeting

The Second meeting of the Industrial Committee on Plantations was held at New Delhi from 31st March to 2nd April 1948. Mr. Deshpande's Reports<sup>3</sup> on the enquiry into the Cost and Standard of Living of Plantation Workers in Assam and Bengal and South India were placed before the Committee and the exclusion of children below 12 years of age from employment and the question of wages were considered. The Committee agreed to discontinue the employment of children who have not completed 12 years of age. As the fixation of minimum wage under the Minimum Wages Act, 1948 and the determination of fair wages by Wage Boards under the proposed Plantation Act will take time, an agreement on wages was reached which resulted in further increase of dearness allowance to the workers from 1st of May 1948. Dearness allowance to adult workers in tea plantation in Assam Valley, the Dooars and Terai has to be increased to 3½ annas per day and 3 annas per day for Darjeeling and Cachar. Children between 12 and 18 are to be given 2 annas per day. Adult workers in coffee estates are to be given an increase of 3 annas and children 1½ annas. In rubber estates, adults are to be given an increase of 2 annas and children 1 anna.

In connection with the formation of Standards for Medical Care for Plantation labour as decided in the first Plantation Conference, Major Lloyd Jones, Deputy Director-General of Health Services (Social Insurance) was deputed by the Government. He visited the plantation areas in Assam, Bengal and South India and drew up, in consultation with the Provincial Governments and the Employers' Associations, Standards of Medical Care for tea plantation labour, recommending provision of garden hospitals and dispensaries in the first stage and group and central hospitals in the second stage. His Report<sup>4</sup> was discussed in the Second Meeting of the Industrial Committee. Indian Tea Association accepted the proposals while Indian Tea Planters Association criticised the same. Major Lloyd Jones met the criticisms in the meeting but there was no unanimous acceptance of the proposed Standards. Ultimately an agreement was reached that a cess should be imposed only on the gardens, which did not join the Scheme and the Committee agreed that standards of medical care should be prescribed by law and the employment of children below the age of 12 in plantation should be stopped.

<sup>3</sup> (1) Report on an Enquiry into the Cost and Standard of Living of Plantation Workers in Assam and Bengal and (2) Report on an Enquiry into the Cost and Standard of Living of Plantation Workers in South India.

<sup>4</sup> Standards of Medical Care for Tea Plantations in India.

The meeting also agreed that the Standing Committee should consist of 12 members, 4 each from the employers, workers and the Government groups.

### **Third Meeting**

The third meeting of the Industrial Committee on Plantation which met in New Delhi on the 4th and 5th November 1950 discussed the draft Plantation Labour Bill, clause by clause. The provisions relating to education were objected to by the employers' representatives on the ground that primary education being the responsibility of the State, the employers should not be further burdened as they are already paying primary rural educational cess. The Bill gives direction relating to hygienic arrangements and medical facilities to be provided by the employers.

On the question of welfare measures, the Government has been endeavouring to persuade the planters to introduce such measures voluntarily. Welfare measures have been incorporated in the draft Bill and the Government's view is that most of these measures will be borne at the cost of the employers.

The Committee reaffirmed the liability of the employers to provide housing facilities to the workers. The Committee laid down certain standard building specifications and recommended that the employers should aim at a target of providing eight per cent of the population of plantation gardens with houses every year.

The question of abolition of Kangany system of labour in South India plantations about which the Rege Committee disclosed many evils, was discussed. The Committee proposed to appoint a Sub-Committee, comprising representatives of South India plantation employers and workers and Government of States where this system prevails to examine the problem and report thereon within three months.

### **Plantation Labour Act, 1951 (LXIX of 1951)**

Largely on the basis of discussions at a Tripartite Plantation Conference held in September, 1949 and the Third Meeting of the Industrial Committee on Plantation held in November 1950, the Government framed the Plantation Labour Bill and introduced the same in the Parliament on the 7th June 1951. The Bill was passed by the Parliament on the 15th October, 1951 and received the assent of the President on the 2nd November 1951. The Act regulates for the first time the conditions of work and employment of plantation workers and its provisions are largely based on the Factories Act, 1948.

### **Main Provisions of Act LXIX of 1951**

#### **Scope**

The Act extends to the whole of India except the State of Jammu and Kashmir and applies, in the first instance, to all tea, coffee, rubber and cinchona plantations which admeasure 25 acres or more or whereon 30 or more persons are employed or were employed on any day of the preceding 12 months. State Governments, subject to the previous approval of the Central Government, may apply it to any other class of plantations within that State.

#### **Inspecting Staff**

The administration of the Act will be responsibility of the Chief Inspector of Plantation to be appointed by the State Government. They are to be assisted by Inspectors. Provisions are made for appointment of Certifying Surgeons for the examination of and enquiry into the conditions of work and for the exercise of medical supervision.

#### **Health**

Under the Act, the employers are required to make effective arrangement for supply of wholesome drinking water for all workers and for providing sufficient

number of latrines and urinals, of the prescribed standard, separately for men and women. They are also required to provide and maintain such medical facilities for the workers as may be prescribed by the State Government. The Act empowers the Chief Inspector to provide and maintain such facilities if these are not provided by the employers and to recover the cost from them.

### **Welfare**

The State Governments are empowered to make rules requiring (1) every planter ordinarily employing 150 workers to provide and maintain canteens, (2) every planter to provide such recreational facilities for the workers and children as may be prescribed, (3) every planter employing 50 or more women to provide and maintain creches and (4) every planter in whose estate there are more than 25 workers' children between the ages of 6 and 12 to provide educational facilities for them. Exact standards of canteen, creches, recreational and educational facilities are to be prescribed under the Rules framed by the Governments.

Under the Act it is the duty of every employer to provide and maintain for every worker and his family residing in the plantation necessary housing accommodation. The State Government may make rules providing (1) the standard and specification of the accommodation to be provided, (2) the selection of preparation of the site for the construction of the houses and the size of such plot, (3) rent chargeable from the workers, (4) the procedure for allotment to workers and their families housing accommodation and suitable strip of land adjoining such accommodation for use as kitchen garden and (5) the constitution of tripartite Advisory Boards for consultation in regard to matters connected with the provisions of housing accommodation. The State Government may make rules requiring the planters to provide workers with such number and type of umbrellas, blankets, rain coats or other like amenities for protection of the workers from rain or cold.

### **Welfare Officers**

Employers employing 300 or more workers are required to employ Welfare Officers. The State Government may prescribe the number, duties, qualifications and conditions of service of the Welfare Officers.

### **Hours of Work**

The Act fixes the weekly working hours for adults at 54 and for children and adolescents at 40. The Act does not fix the daily working hours but fixes the spread over period at 12 hours a day including the period of rest and the time spent for waiting for work on any day. Workers must be given an interval for rest for at least half an hour after working for 5 hours. The State Government may make rules providing for (1) weekly holiday and (2) payment for work done on such holiday at a rate not less than overtime rate prevailing in the area. Workers can work on any day of rest which is not a closed holiday and this is allowed up to a total period of 10 days at a stretch. Where on any day a worker has been prevented from working by reason of tempest, fire, rain or other natural causes, that day may be treated as his weekly day of rest for the week concerned, if he so desires. Workers whose total period of employment in any week is less than 6 days are not entitled to weekly holidays.

### **Employment of Children and Young Persons**

The Act prohibits the employment of children under 12 years of age. No child (who has not completed 15 years) or adolescent (who has not completed 18 years) can be allowed to work unless he is certified fit to work by a Certifying Surgeon and unless he carries with him a token to this effect.

### **Night Work for Women and Children**

Except with the permission of the State Government, no woman or child worker can be employed in any plantation otherwise than between the hours of 6 A.M. and 7 P.M.

### **Leave with Pay**

The Act provides for annual leave with wages for an adult worker at the rate of one day for every 20 days of work, and for a child or adolescent one day for each 15 days of work. The leave is accumulative but the worker shall cease to earn any leave when his earned leave amounts to a maximum period of 30 days. During the leave period, the worker will be paid at a rate equal to his total full-time wages, exclusive of any overtime earnings and bonus but including dearness allowance and money value of food concessions. The Act reserves the right accruing to workers from awards, agreements or contracts of services providing for longer period of leave.

### **Sickness and Maternity Benefit**

The Act prescribes that every worker shall be entitled to sickness allowance in case of sickness duly certified by a qualified medical practitioner and a woman worker maternity allowance in case of confinement or expected confinement, subject to any rules that may be prescribed by the State Government in this respect. The State Government may make rules prescribing the rate, period of benefit, qualifying conditions, etc.

### **Penalties**

Adequate penalty provisions have been made in the Act to secure proper enforcement of law. Complaint has to be lodged within three months from the date on which the alleged commission of the offence comes to the knowledge of the Inspector.

### **General Powers of the Central and State Governments**

The Central Government may give directions to the State Governments in regard to the implementation of the Act. The State Governments may make Rules to carry out the purposes of the Act. The Act authorises the State Government to exempt, subject to conditions and restrictions, any employer or class of employers from all or any of the provisions, after obtaining previous approval of the Central Government.

### **Non-implementation of the Plantation Labour Act**

#### **Slump in Tea Industry and Official Team (Raja Ram Rao) Report**

The slump in tea prices towards the end of the year 1951 led to the closing down of a number of gardens. The Government of India received a number of representations in March and April 1952 from different quarters requesting for immediate relief to the tea industry owing to the significant fall in prices. Towards the end of May, 1952, the Government of India in the Ministry of Commerce and Industry, appointed a Team of Officials consisting of Sri E. Raja Ram Rao, Member, Central Board of Revenue and Sri M. A. Mulkey of the Ministry of Commerce and Industry assisted by Sri S. V. Ayyar, Chief Cost Accounts Officer, Ministry of Finance (Industry and Commerce Division) to investigate into the conditions of the industry and to recommend measures of relief. Though the object of enquiry was to give advice on the immediate reliefs to the industry on account of steep fall in prices, many questions which had no immediate bearing on this

aspect have been placed before the Team. The Report of the Team dated the 19th September, 1952 is a comprehensive review of all problems facing the industry. The Team pointed out to the industry at the very early stage of enquiry that its first attempt to effect economy must not be by attempted reduction of minimum wages or retrenchment.

The following amongst others, are the main demands of the industry before the Team:—

(1) Reduction of the Wage Bill which has increased due to the implementation of the Minimum Wages Act and enforcement of minimum wages Awards; and suspension of the operation of the Minimum Wages Act, 1948; (2) Conversion of the foodstuff concessions into cash benefits; the State to take over supply of foodgrains to the labour and responsibility for supply of foodstuffs to the workers' dependants and non-workers to end; (3) Suspension of the implementation of the Plantation Labour Act, 1951 and (4) Retrenchment of surplus labour.

The Team's Recommendations on the abovementioned demands are as follows:—

(1) The industry should make necessary representations to the States concerned for appointment of Advisory Committees and Advisory Boards and the anomalies placed before the Team in regard to minimum wage should be studied by the Central Advisory Board appointed by the Central Government. The Team suggested that in the interests of all, the Central Advisory Board recently constituted might quickly advise the Governments concerned. The Team further suggested that in the long-term interest of labour itself, the wages and other amenities must be such as the Industry could afford to pay; (2) Government should supply rationed foodstuffs at convenient centres and depots and the tea gardens should only be required to retail these foodstuffs through their shops. The garden should continue to bear the expenses of transporting the foodstuffs from the centres or depots to their ration shops. The legal responsibility for distribution of foodstuffs to the workers should continue to rest on the tea gardens. An additional cash wage equivalent to the difference between the prices at present paid by the workers for foodstuffs, viz., Rs. 5/- per maund in case of rice and the price they will have to pay for rationed foodstuffs at controlled rates, should be paid to them. The foodstuffs should be supplied only to workers and their dependant family members such as father, mother, brother, sister and other close relations. It would not be proper to make the industry responsible for feeding at concession rates people not connected with the industry; (3) The implementation of the Plantation Labour Act should be postponed for a period of 2 years or so in the case of tea industry; (4) Retrenchment should not appear as the first item on the proposal for reduction of the cost of production. The Team found it difficult to make any positive recommendation about retrenchment and expressed the view that the State Governments might consider the question sympathetically in the light of factors obtaining at the time

#### **Industrial Committee on Plantation: Fourth Meeting**

The Fourth Meeting of the Industrial Committee on Plantation was held in Calcutta on the 19th and 20th December, 1952 to consider the question of the closing of tea gardens and the Recommendations of the Official Team concerning labour. The Union Labour Minister Sri V. V. Giri while delivering the inaugural speech dwelling on the recommendations of the Raja Ram Rao Committee (Official Team) about tea industry, admitted that the tea garden labourers' wages were inadequate but expressed the hope that they would be realistic enough to judge the situation objectively. He advised the representatives of the employers and labour to hold bipartite discussions for arriving at some agreed solution acceptable to all. A resolution arrived at as a result of the bipartite agreement was furnished

to the Government for consideration. The resolution recommended that since the Official Team's Report did not furnish adequate statistical data relating to industry and labour, a Tripartite Commission should be appointed to investigate into the cost structure of the industry.

The Central Government, though in agreement with the above view, felt that in view of the technical nature of the problem, a Committee consisting of Experts rather than a Tripartite Commission would be more appropriate, and decided to appoint an Expert Committee consisting of a body of experts including one with an intimate knowledge of labour problems to investigate into the cost structure of the industry with a view to suggesting ways and means for revision of the cost structure to bring it in consonance with the present price level, etc.

#### **Standing Plantation Committee**

A special meeting of the above Committee was held at Shillong on the 28th February, 1953 to discuss the problems of closure of tea gardens and surplus labour and conversion of foodgrains concession into cash. The Central Labour Minister Sri V. V. Giri who inaugurated the meeting remarked: "If workers are asked to undergo sacrifices to meet the emergencies, it is fair that other higher placed *i.e.*, the managerial staff as well as the shareholders should also make some sacrifices". There was a general agreement on the principle of cash conversion but there was no agreement on the exact quantum of compensation to be paid. The problem of closure of tea gardens and surplus labour could not be decided upon for want of time.

#### **Fifth Meeting**

The Fifth Meeting of the Industrial Committee on Plantation was held in Calcutta on the 30th and 31st December, 1954 to consider the following agenda—(1) Lay-off compensation for plantation workers; (2) Enforcement of the Plantation Labour Act, 1951 and (3) Cash conversion of the foodgrains concessions.

A number of tea gardens closed down or drastically retrenched their workers during 1952. The question of payment of compensation for involuntary unemployment was discussed at the 13th Meeting of the Standing Labour Committee held at New Delhi in July 1953 and an agreement was reached between the representatives of employers and labour as a result of bipartite consultation, on the quantum of compensation and the conditions for grant of compensation in the event of retrenchment and lay-off. Industrial Disputes (Amendment) Act, 1953 (XLIII of 1953) was based largely on the terms of this agreement, but the lay-off provisions were applicable to factories and mines only. The Committee recommended that the provisions of the Industrial Disputes (Amendment) Act of 1953 relating to lay-off should be applicable to plantation industry with effect from the 1st April, 1954. The Industrial Disputes (Amendment) Act, 1954 (XLVIII of 1954) was passed to give effect to this recommendation.

The Committee recommended that (1) the Plantation Labour Act 1951 should be brought into force from the 1st April, 1954, (2) the sections which automatically came into force, as for example, those relating to the provision of drinking water, fitness certificate and annual leave with wages, should be given effect to from that date, (3) the Rules should be framed in respect of all welfare measures and submitted to the Tripartite Committee for scrutiny and approval and after finalisation of the Rules, a phased programme should be drawn up in the matter of implementation. The Committee felt that priority should be given to the provisions of medical facilities, housing, protection from the weather and appointment of Welfare Officers.

On the question of cash conversion the Committee recommended that for Assam the cash wage should be increased subject to the condition that foodgrains would be available at certain specified rates.

### **Enforcement of the Plantation Labour Act, 1951 & Rules**

The Act has come into force on the 1st of April, 1954. The scheme of the Act is such that practically none of the welfare measures can be implemented unless Rules on the subject have been framed by the State Government concerned. The Act authorises the Central Government to give directions to the State Governments in regard to the implementation of the Act. Model Rules drafted by the Central Government in respect of most of the health and welfare provisions, were circulated for comments. The draft Model Rules were subsequently finalised and forwarded to the State Governments for adoption. Drafts of the Plantation Labour Rules have been published by the State Governments concerned in their respective State Gazettes in August, 1955 after the draft Model Rules were discussed in the Sixth Meeting of the Industrial Committee on Plantation held at Ootacamund on the 19th July, 1954.

### **Industrial Committee on Plantation: Sixth Meeting**

The Sixth Meeting of the Industrial Committee on Plantation held at Ootacamund on the 19th July 1954 dealt with the draft Model Rules. The model rules have since been finalised and forwarded to the State Governments concerned for adoption. The Rules provide for phased implementation of measures relating to housing and medical facilities and authorises the State Governments to fix the date or dates for providing certain other facilities, *viz.*, conservancy, canteens, creches, recreational and educational facilities.

### **Seventh Meeting**

The Seventh Meeting of the Industrial Committee on Plantation held in New Delhi on the 31st August 1955 and the 1st September, 1955 recommended speedy implementation of the Plantation Labour Act of 1951. The Union Labour Minister Sri Khandubhai Desai addressing the meeting stressed the need for the immediate implementation of the Act and regretted that even in 1955 the Act could not be implemented fully. He said, "Not only this generation but the future generation will blame us if we delay the implementation of the law any further." He further said that the plantation industry played a very important part in the country's economy having engaged roughly about a million and a quarter of employees but the plantation labour was not given a fair deal before the independence.

### **Welfare for Plantation Workers**

The Tea Board allocated Rs. 20,000/- to the Governments of Uttar Pradesh and Bihar for the welfare of plantation workers to provide a mobile dispensary and a welfare centre. The Board also agreed to donate a sum of Rs. 57,500/- towards the capital cost of the T. B. Chest Clinic proposed to be set up at Darjeeling where treatment on concessional terms will be offered to the tea garden workers.

### **Maternity Benefit extended to Plantation Labour**

Maternity benefit legislation was so long applicable to the factory labour only and there was no statutory obligation on the employer to pay maternity benefit to plantation labour. In Assam only women workers in plantations are entitled

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<sup>6</sup> Hindusthan Standard, Calcutta Edition, dated the 2nd September, 1955.

to maternity benefit under the law amounting Re. 1/- per week before and Re. 1-4-0 per week after confinement, total amount payable being Rs. 14/-. In October 1948 the Government of West Bengal passed a separate maternity legislation called West Bengal Maternity Benefit (Tea Estates) Act, 1948 (West Bengal Act No. XXXIII of 1948) for extending maternity benefit to women workers employed in tea factories and plantations. The Act has come into force from the 1st May, 1949 and provides for payment of maternity allowance at a rate of Rs. 5/4/- per week for a period of 12 weeks as has been provided in the Employees' State Insurance Act, 1948 (XXXIV of 1948).

### **Minimum Wages Act, 1948**

Employment in plantations is one of the employments covered by the provisions of the Minimum Wages Act, 1948. The Governments of Assam, Bihar, Madras, Punjab, Uttar Pradesh, West Bengal, Mysore, Travancore-Cochin and Coorg have fixed minimum wages for the workers employed in the plantations. The Seventh Meeting of the Industrial Committee on Plantation decided that the need for revising minimum wages fixed under the Minimum Wages Act, 1948 should be brought to the notice of the State Governments, as the objective to be arrived at was a suitable minimum wage rising to a fair wage.

### **Payment of Wages Act extended to Plantation Labour**

As a first step in improving the conditions of labour in plantation and in giving effect to the recommendation of the Labour Investigation Committee, the Government of Madras has extended the provisions of the Payment of Wages Act to the plantation workers in the State with effect from April 1947. The Government of West Bengal also, by a notification dated 9th May, 1949, has extended the provisions of the said Act to the payment of wages to all classes of persons employed in the Tea Plantations in West Bengal.

### **Provident Fund for Plantation Labour**

The question of introducing the compulsory contributory provident fund scheme for the tea plantation labour is under the consideration of the Government of India for some time past. The Seventh Meeting of the Industrial Committee on Plantation held on 31st August and 1st September, 1955 decided to extend the Employees Provident Fund Act, 1952 to plantation labour. It is expected that the Central Government would initiate suitable legislation for amending the present Employees Provident Fund Act 1952 with a view to extending its benefits to plantation labour.

The Government of Assam has recently enacted the Assam Tea Plantations Provident Fund Scheme Act, 1955 (Assam Act X of 1955) for making provisions for the framing of a compulsory provident fund scheme for labourers including artisans employed in Tea Plantations in Assam. The Act received the assent of the President on the 5th June, 1955. The Assam Government has framed the Assam Tea Plantations Provident Fund Scheme under the above Act and published the same in Assam Gazette, Part IIA dated the 10th August, 1955 at page 1415 under Notification No. G. L. R. 267/55, dated the 5th August, 1955.

### **Plantation Enquiry Committee**

The Government of India has set up the Plantation Enquiry Committee in 1954 to enquire into the economic conditions and problems relating to tea, coffee and rubber industries. It is expected to submit its report by the end of 1955.



## TEA DISTRICTS EMIGRANT LABOUR ACT, 1932 (XXII OF 1932)

### Statement of Objects and Reasons<sup>1</sup>

The Assam Labour and Emigration Act, 1901, which regulates emigration to the tea districts of Assam, was designed, like its predecessors, mainly to regulate the recruitment and engagement of indentured labour. It has not been possible for some years for any worker in Assam to be subjected to a penal contract and, in consequence of this and other changes, the law is entirely unsuited to present conditions. Attempts were made by amending Acts in 1908, 1915 and 1927 to adapt the Act to meet altering conditions; substantial parts of it have been repealed and large numbers of rules have been framed in the endeavour to use the Act to regulate the recruitment of emigrants who are subject to no indenture. These changes have proved inadequate and they have made the law extremely confused. Large parts of the surviving provisions of the Act have become completely ineffective and those provisions which are operative are open to weighty criticisms.

2. In 1926, the Government of India addressed the Local Governments mainly concerned suggesting that the time might have come for the abolition of all control over recruitment and that, if this was inadvisable, considerable changes should be made in the law. The replies received agreed in regarding some restrictions on recruiting as still essential and the existing restrictions as unsatisfactory. The Government of India accordingly drafted an Assam Recruitment Bill, which was sent to the Local Governments in December, 1928. By the time criticisms of it had been received, the Royal Commission on Labour had been appointed and a decision was deferred until they had reported. They collected a large amount of evidence on the subject and devoted Chapter XX of their Report to a discussion of it. As a result, they recommended the replacement of the existing legislation by a new enactment. The Bill follows the scheme prepared by the Commission, whose recommendations have been varied in respect of minor details and supplemented where necessary.

3. The first object of the Bill is to make it possible, on the one hand, to exercise all the control over the recruitment and forwarding of assisted emigrants to the Assam tea gardens as may be justified and required by the interests of emigrants and potential emigrants and, on the other hand, to ensure that no restrictions are imposed which are not so justified. The ideal, now as in the past, is the reduction of restrictions to a minimum and the establishment of such conditions as will make it possible to dispense with all control. This ideal has recently been endorsed by both the Royal Commission on Agriculture and the Royal Commission on Labour. It is desirable, therefore, that the provisions relating to control should be sufficiently elastic to allow of their complete or partial relaxation as and where this is required, and sufficiently wide to deal with any possible recrudescence of recruiting abuses. The Bill proposes that Local Governments should be able, subject to the control of the Government of India<sup>1</sup> to impose control over the forwarding of assisted emigrants (clause 16 and Chapter III generally) or over both their recruitment and their forwarding (clauses 16 and 26 and Chapters III and IV generally) as occasion may dictate. Under the former system, assisted emigrants will ordinarily be forwarded through licensed local agents in the recruiting districts (clauses 17, 18)<sup>2</sup> by prescribed routes (clause 19) on which provision for food, shelter, etc., must be made by employers and medical supervision can be exercised [clauses 20, 33, 35 and 36 (4)]. Only employers who make satisfactory provision will be able to secure and retain licenses for local agents [clause 17 (3)], and the operations of local agents and others engaged in forwarding will be subject to inspection and scrutiny (clauses 4 and 22). Under the latter system, employers will, in addition, be prevented from recruiting otherwise than by means of certificated persons employed in the gardens (*garden-sardars*), or recruiters<sup>3</sup> licensed in the recruiting provinces (clause 27). But the ordinary provisions relating to either system may be relaxed to such extent as seems desirable in any area to which the system is applicable [provisos to clauses 16 (1) and 26 (1)].

4. In addition, the Bill seeks to secure for all those who are to emigrate under it the right to be repatriated from Assam (Chapter II) with their dependants (clause 9) at the employer's expense (clause 12). Ordinarily this right will accrue after three years from the date of entry into Assam (clause 7). It will also be possible to claim repatriation within three years in the event of the emigrant (a) being dismissed otherwise than for wilful misconduct<sup>4</sup> (clause 8), (b) failing in health, (c) not being provided with suitable work<sup>5</sup>, or (d) having his wages unjustly withheld (clause 10). Repatriation within one year of entry to Assam will also be possible where there has been fraud or misrepresentation or other irregularities in recruiting (clauses 10 and 34). Further, repatriation can be ordered at any time by a Criminal Court in the case of a labourer who has been assaulted by the

<sup>1</sup> Gazette of India, 1932, Part V, page 133.

employer or his agent (clause 11)<sup>6</sup>. It is believed that the offer of these rights of repatriation to emigrants will benefit not merely emigrants but the industry as a whole by removing a serious obstacle to the flow of suitable labour, and that the existence of an adequate supply of such labour will go far to remove the conditions which make it undesirable at present to dispense with control over emigration.

5. For the general administration of the system which the Bill seeks to establish it is proposed to appoint a Controller of Emigrant Labour with some staff and possibly a Deputy Controller (clause 3)<sup>7</sup>. The charges will be met by the tea industry through a cess of somewhat similar character to that raised under the present Act for the Assam Labour Board (clause 5). The Controller is intended to be an officer subject to the Government of India and responsible for—

- (a) enforcing the law relating to repatriation in Assam (clauses 4, 8—10, 12—15) collateral powers being given to District Magistrates (clause 36);
- (b) supervising the forwarding routes (clauses 4, 33—35)<sup>8</sup>;
- (c) supervising conditions in the recruiting provinces, where his powers will be limited to inspection and advice [clauses 4, 17(3)], executive action being entrusted to the local authorities (Chapters III and IV).

He should thus be able to secure the proper co-ordination of the whole system, and to advise regarding possible relaxations of control or the imposition of further restrictions under the Act, if required. It is intended that, with the appointment of the Controller, the Assam Labour Board, which has since 1915 exercised some supervision, without executive authority, in the recruiting provinces, should be abolished.

6. Apart from the main changes proposed in the law and explained above, the Bill involves a number of minor alterations in the present position.

(a) The Bill is not limited in its initial application to certain provinces [clause 1 (2)]. So to limit it would involve the limitation of repatriation rights to emigrants from these provinces, while its general extension does not render obligatory the extension of control to areas at present uncontrolled.

(b) It will no longer be possible to restrict the recruitment of labour within Assam itself, *cf.* Report of the Royal Commission on Labour, page 373 [clause 2 (c)].

(c) Unassisted emigration will be entirely free; control can only be exercised where material assistance is given (clause 2 (h)<sup>9</sup>].

(d) The engagement and forwarding of emigrants who are merely returning to Assam after leaving it as adults<sup>10</sup> will be uncontrolled [clauses 2 (f) and 2 (h)<sup>11</sup>].

(e) It will no longer be possible to prohibit recruitment for Assam; with the complete abolition of penal contracts, the prohibition of recruitment for certain districts of India cannot be justified in the interests of labour, *cf.* Reports of the Royal Commission on Agriculture, page 581, and of the Royal Commission on Labour, page 363.

(f) Managers and other supervising officers on tea estates will be able to receive certificates to conduct recruiting in restricted recruiting areas (clause 28).

(g) It is proposed that in all areas, controlled or uncontrolled, it should be unlawful to assist persons under 16 to emigrate unless they are accompanied by their parent or guardian (clause 32)<sup>12</sup>.

(h) It is proposed that it should be possible to detain and return at the employer's expense sick persons emigrating from any province (clause 33).

(i) The provisions of the Bill are intended to apply only to emigration for work on tea plantation in the first instance; but power is retained to extend its application to other industries in Assam and to other districts than the eight tea districts. This power could be used if labourers are imported to other forms of industry with a view to their transference to tea estates, or if the tea industry develops in other parts of Assam (clause 38)<sup>13</sup>.

### Note

[The numbers of the clauses of the Tea Districts Emigrant Labour Bill of 1932, as introduced in the Legislative Assembly, quoted in the Statement, have been altered where necessary to accord with the numbers of the sections of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932).]

1. The Select Committee provided that a notification under section 26 should have the previous sanction of the Governor-General in Council.

2. This clause was revised by the Select Committee to cover not only assisted emigrants but also persons who had worked in Assam as labourers in the two preceding years. The Committee considered that, for purposes of check and in the interest of those persons themselves, it was desirable that they should be produced at the depots of the local forwarding agents. But the Committee did not contemplate that they should be subject to the provisions of the Act relating to assisted emigrants in other respects.

3. The original clause 27 was omitted by the Select Committee as the provision in it was covered by section 31 as amended by the Committee.
4. The Select Committee amended the phrase "wilful misconduct" to "wilful and serious misconduct".
5. This provision was amended by the Select Committee so as to prevent an emigrant labourer from being compelled to work on less than the ordinary wage.
6. The Select Committee provided for the grant of repatriation also for "any other sufficient cause" [section 10(1) (d)] because they considered that it was not possible to provide specifically for all the grounds which might warrant repatriation and that cases of serious hardship might arise which were not covered by the other provisions. But as a safeguard in the exercise of this very wide power, they provided that it should be exercised only by the Controller of Emigrant Labour himself and not by another officer exercising the powers of the Controller delegated by or under the Act.
7. The Select Committee amended the clause to make it possible to appoint more than one Deputy Controller if necessary.
8. The Select Committee amended these clauses to cover persons who had worked in Assam as labourers in the two preceding years.
9. See also section 2(g) which was inserted by the Select Committee.
10. The definition was widened by the Select Committee to cover persons who had already worked in Assam as labourers, provided they had been absent from Assam for more than two years.
11. See also section 2(g) which was inserted by the Select Committee. The definition in section 2(h) was amended by the Select Committee so as to ensure that a person who takes up other employment on a tea garden such as that of domestic servant or mechanic does not thereby lose his status as an emigrant labourer.
12. The Select Committee extended the prohibition also to the recruitment of a married woman without the consent of her husband.
13. The Select Committee added section 39, and section 40 was added by the Legislative Assembly.

## TEA DISTRICTS EMIGRANT LABOUR ACT, 1932 (XXII OF 1932)

### Arrangement of Sections

#### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement
2. Definitions.
3. Appointment and status of Controller and Deputy Controllers.
4. Powers of the Controller.
5. Emigrant labour cess
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#### CHAPTER II—REPATRIATION

7. General right of repatriation after three years in Assam
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9. Rights of repatriation of family of deceased emigrant labourer
10. Right to apply for repatriation in certain circumstances.
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14. Postponement, waiver and forfeiture of the right.
15. Power of the Controller to enforce the provisions of this Chapter.

#### CHAPTER III—CONTROLLED EMIGRATION AREAS

16. Power to declare controlled emigration areas.
17. Power to grant licenses to local forwarding agents.
18. Recruits in controlled emigration areas to be sent to forwarding agents' depots.
19. Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.
20. Maintenance of depots along prescribed routes.
21. Power of Central Government to make rules.
22. Inspection of depots, vessels and vehicles.
23. Action where proper arrangements not made for assisted emigrants.
24. Cancellation of licenses.
25. Penalty for illicit abetment of emigration.

## CHAPTER IV—RESTRICTED RECRUITING AREAS

26. Power to declare restricted recruiting areas.
27. Grant of licenses to recruiters.
28. Grant of certificates to garden-sardars
29. Cancellation and suspension of recruiter's license.
30. Cancellation of garden-sardar's certificate.
31. Penalty for illicit recruitment.

## CHAPTER V—SUPPLEMENTAL

32. Prohibition of the recruitment of children
33. Power to detain and return sick persons.
34. Power to return person improperly recruited.
35. Power to enforce the provisions of Sections 33 & 34.
36. Magistrates and medical officers who may exercise the powers of the Controller.
37. Power of the Central Government to make rules.
38. Powers to extend the scope of this Act.
39. Saving for acts done in good faith under the Act.
40. Bar of jurisdiction of Civil Courts.
41. Repeal of Act VI of 1901 and certain consequences.

## SCHEDULE.

TEA DISTRICTS EMIGRANT LABOUR ACT, 1932 (XXII OF 1932)<sup>1</sup>

## An Act to amend the law relating to emigrant labourers in the tea districts of Assam.

[8th October, 1932.]

Whereas it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam; It is hereby enacted as follows:—

## CHAPTER I.—PRELIMINARY.

1. **Short title, extent and commencement.**—(1) This Act may be called the Tea Districts Emigrant Labour Act, 1932.

<sup>2</sup>[(2) It extends<sup>3</sup> to the whole of India <sup>4</sup>[except the State of Jammu and Kashmir].]

(3) It shall come into force on such <sup>5</sup>date as the <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[Official Gazette], appoint.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “tea district” means any of the following districts in the <sup>8</sup>[State] of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, <sup>9</sup>[and Cachar], and the Balipara Frontier Tract;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 133; for Report of Select Committee, see *ibid.*, p. 179; see also pp 164-166, ante.

<sup>2</sup> Subs. by the A. O. 1950 for the former sub-section (2).

<sup>3</sup> This Act has been declared to be in force in the Khondmals District by the Khondmals Law Regulation, 1936 (4 of 1936), s. 3 and Sch. and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

<sup>4</sup> Subs. by Act 3 of 1951, s. 3 and Sch. for “except Part B States”.

<sup>5</sup> 1st October, 1933, see Gazette of India, 1933, Pt. I, p. 903.

<sup>6</sup> Subs. by the A. O. 1937 for “G. G. in C.”.

<sup>7</sup> Subs., *ibid.*, for “Gazette of India”.

<sup>8</sup> Subs. by the A. O. 1950 for “province”.

<sup>9</sup> Subs. by the A. O. 1948 for “Cachar and Sylhet”.

- (b) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;
- <sup>10</sup>[(c) "recruiting State" means any State other than Assam;]
- (d) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult;
- (e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan;
- (f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting <sup>11</sup>[State] <sup>12</sup>\* \* \* \* is proceeding through <sup>13</sup>[any part of the territories to which this Act extends] to any place in Assam to work as a labourer on tea estate, and has received assistance from any person,  
but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;
- (g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;
- (h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate  
and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,  
but does not include any person who, at any time after his last entry into Assam and after he has become an adult, has taken employment not on a tea estate;
- (i) the "family" of any person includes the following, if living with him, namely,—
- (i) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,
  - (ii) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and
  - (iii) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,
- and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;
- (j) "employing interest" means any employer of labourers, or any group or association of such employers; and
- (k) "prescribed" means prescribed by rules made by the <sup>14</sup>[Central Government].

**3. Appointment and status of Controller and Deputy Controllers.**—(1) The <sup>14</sup>[Central Government] may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

<sup>10</sup> Subs. by Act 3 of 1951, s. 3 and Sch.

<sup>11</sup> Subs. by the A. O. 1950 for "Province".

<sup>12</sup> The words "or in any Part B State" were omitted by Act 3 of 1951, s. 3 and Sch

<sup>13</sup> Subs., *ibid.*, for "any part of any Part A State or Part C State".

<sup>14</sup> Subs. by the A. O. 1937 for "G. G. in C.".

(2) The <sup>14</sup>[Central Government] may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the <sup>14</sup>[Central Government] may determine.

(3) The Controller may, from time to time and subject to the control of the <sup>14</sup>[Central Government], make a distribution of work as between himself and the Deputy Controllers.

(4) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

**4. Powers of the Controller.**—The Controller shall have power—

- (a) to enter—
  - (i) all open places on a tea estate,
  - (ii) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,
  - (iii) any office of a tea estate,
  - (iv) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting <sup>15</sup>[State],
  - (v) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;
- (b) to inspect, in any office or depot mentioned in sub-clauses (iii) and (iv) of clause (a), any register or other document required to be kept under this Act;
- (c) to carry out in any place mentioned in clause (a) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and
- (d) to do any other reasonable act which may be expedient in the discharge of his duties.

**5. Emigrant Labour Cess.**—(1) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess.

(2) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(3) It shall be levied at such rate<sup>16</sup>, not exceeding nine rupees, for each such emigrant as the <sup>14</sup>[Central Government] may, by notification in the <sup>17</sup>[Official Gazette], determine for the year of levy.

(4) The proceeds of the cess shall be credited to a fund, to be called the Emigrant Labour Fund, to be administered by the <sup>14</sup>[Central Government].

**6. Power to make rules for the collection of the Emigrant Labour Cess.**—

(1) The <sup>14</sup>[Central Government] may, by notification in the <sup>17</sup>[Official Gazette], make rules<sup>18</sup>—

- (a) prescribing the agency which shall collect the Emigrant Labour Cess;
- (b) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;
- (c) regulating the procedure of the collecting agency;
- (d) prescribing the mode of payment of the cess;
- (e) determining the date when any sum payable as cess shall be an arrear;

<sup>14</sup> Subs. by the A. O. 1937 for "G. G. in C.".

<sup>15</sup> Subs. by the A. O. 1950 for "Province".

<sup>16</sup> Rs. 5/- from 1-10-55 to 30-9-56, vide Ministry of Labour Notification No. S.R.O. 2047 dated 9-9-55.

<sup>17</sup> Subs., *ibid.*, for "Gazette of India".

<sup>18</sup> See Tea Districts Emigrant Labour Rules, 1933.

- (f) declaring that an arrear of cess may be recovered as an arrear of land-revenue and prescribing the procedure to be followed to secure such recovery; and
- (g) generally, to secure the equitable collection of the cess.

## CHAPTER II.—REPATRIATION.

**7. General right of repatriation after three years in Assam.**—Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry.

**8. Right to repatriation on dismissal.**—(1) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer.

(2) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

**9. Rights of repatriation of family of deceased emigrant labourer.**—(1) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

(2) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

**10. Right to apply for repatriation in certain circumstances.**—(1) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely:—

- (a) that his state of health makes it imperative that he should leave Assam, or
- (b) that his employer has failed to provide him with work suited to his capacity, at the normal rate of wages for that class of work; or
- (c) that his employer has unjustly withheld any portion of any wages due to him, or
- (d) any other sufficient cause.

(2) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely:—

- (a) that he was recruited by coercion, undue influence, fraud or misrepresentation, or
- (b) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer:

Provided that a declaration in pursuance of clause (d) of sub-section (1) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

**11. Power of Criminal Courts to order repatriation.**—Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code (XLV of 1860) with imprisonment for one year or upwards, the convicting Court or the Appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

**12. Incidents of the right of repatriation.**—(1) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home:

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her:

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred for decision to the Controller.

**13. The discharge of an employer's duty to repatriate.**—(1) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey:

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of sub-section (1), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default:

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

**14. Postponement, waiver and forfeiture of the right.**—(1) An emigrant labourer may, by agreement with his employer, postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises:

Provided that the <sup>19</sup>[Central Government] may, by notification in the <sup>20</sup>[Official Gazette], make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement:

<sup>19</sup> Subs. by the A. O. 1937 for "G. G. in C.".

<sup>20</sup> Subs., *ibid.*, for "Gazette of India".



Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified.

(2) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

**15. Power of the Controller to enforce the provision of this Chapter.—**

(1) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(2) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and shall recover the costs incurred from the employer.

(3) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.

(4) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

**CHAPTER III.—CONTROLLED EMIGRATION AREAS.**

**16. Power to declare controlled emigration areas.**—<sup>21</sup>[(1) The Central Government may, by notification in the Official Gazette, declare any area within a recruiting <sup>22</sup>[State] to be a controlled emigration area and thereupon the provisions of this Chapter shall apply to that area:

Provided that the Central Government may by the same or any subsequent notification declare that any of the provisions of this Chapter shall not apply in that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

**17. Power to grant licences to local forwarding agents.**—(1) The <sup>23</sup>[Central Government], or any District Magistrate empowered by it in this behalf, may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

(2) Such licences shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in

<sup>21</sup> Subs. by the A. O. 1937 for sub-section (1).

<sup>22</sup> Subs. by the A. O. 1950 for "Province".

<sup>23</sup> Subs. by the A. O. 1937 for "L. G.".

accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

**18. Recruits in controlled emigration areas to be sent to forwarding agents' depots.**—(1) Whoever arranges with any person in a controlled emigration area that such person shall proceed to Assam with assistance, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a depot.

(2) Whoever arranges with any person in <sup>24</sup>[a Part B State] that such person shall proceed to Assam with assistance and brings or sends such person and any of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

**19. Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.**—An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

**20. Maintenance of depots along prescribed routes.**—Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

**21. Power of Central Government to make rules.**—(1) The <sup>25</sup>[Central Government] may, by notification in the <sup>26</sup>[Official Gazette], make rules—

- (a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences;
- (b) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents;
- (c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots;
- (d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots;
- (e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances;
- (f) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied;

<sup>24</sup> Subs. by the A. O. 1950 for "an Indian State".

<sup>25</sup> Subs. by the A. O. 1937 for "L. G.".

<sup>26</sup> Subs., *ibid.*, for "Local Official Gazette".

(g) providing for any other matter which in the opinion of the <sup>31</sup>[Central Government] may be required to give effect to the provisions of this Chapter.

(2) In making rules under clause (b), clause (e), clause (f) or clause (g) of sub-section (1), the <sup>31</sup>[Central Government] may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

**22. Inspection of depots, vessels and vehicles.**—(1) The Civil Surgeon, the District Magistrate or the Sub-Divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate, or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

(2) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling whether along a prescribed route or not.

**23. Action where proper arrangements not made for assisted emigrants.**—If the <sup>27</sup>[Central Government] is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, <sup>28</sup>[the Central Government may] direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest:

Provided that the <sup>27</sup>[Central Government] shall not <sup>29</sup>[direct the cancellation of any] licences under this section until <sup>30</sup>[it] has given the employing interest concerned an opportunity to submit its explanation.

**24. Cancellation of licences.**—(1) <sup>31</sup>[Central Government] may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

- (a) if, in the opinion of the <sup>31</sup>[Central Government] or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or
- (b) if the employing interest, on whose application the licence was granted, has applied to the <sup>31</sup>[Central Government] or to the District Magistrate, as the case may be, for the cancellation of the licence, or
- (c) if, in the opinion of the <sup>31</sup>[Central Government] or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act:

Provided that no licence shall be cancelled under clause (a) until the holder thereof has or under clause (c) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation:

<sup>27</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>28</sup> Subs., *ibid.*, for "he may require the Local Government to".

<sup>29</sup> Subs., *ibid.*, for "make any requisition for the cancellation of".

<sup>30</sup> Subs., *ibid.*, for "he".

<sup>31</sup> Subs., *ibid.*, for "L. G.".

Provided further that a cancellation under clause (c) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(2) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (a) of sub-section (1), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the <sup>32</sup>[Central Government], whose decision shall be final.

**25. Penalty for illicit abetment of emigration.**—Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### CHAPTER IV—RESTRICTED RECRUITING AREAS.

**26. Power to declare restricted recruiting areas.**—<sup>33</sup>[(1) The Central Government may, by notification in the Official Gazette, declare any controlled emigration area or any part of a controlled emigration area within a recruiting <sup>34</sup>[State] to be a restricted recruiting area and thereupon the provisions of this Chapter shall apply to that area:

Provided that the Central Government may, by the same or any subsequent notification, declare that any of the provisions of this Chapter shall not apply in relation to that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

**27. Grant of licences to recruiters.**—(1) Subject to rules made under sub-section (2) and sub-section (3), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district.

(2) The <sup>35</sup>[Central Government] may, by notification in the <sup>36</sup>[Official Gazette], make rules prescribing the qualifications for persons who may be granted licences under this section.

(3) <sup>37</sup>[The Central Government] may, by notification in the <sup>38</sup>[Official Gazette], make rules <sup>39</sup>[as respects any restricted recruiting area]—

(a) regulating the procedure of the District Magistrate in granting such licences,

(b) prescribing the form and particulars of such licences, and fees, not exceeding ten rupees, to be paid therefor.

<sup>32</sup> Subs. by the A. O. 1937 for "L. G.".

<sup>33</sup> Subs., *ibid.*, for the original sub-section (1).

<sup>34</sup> Subs., by the A. O. 1950 for "province".

<sup>35</sup> Subs. by the A. O. 1937 for "G. G. in C.".

<sup>36</sup> Subs., *ibid.*, for "Gazette of India".

<sup>37</sup> Subs., *ibid.*, for "The L. G. having jurisdiction over any restricted recruiting area".

**28. Grant of certificates to garden-sardars.**—(1) Subject to rules made under sub-section (2), the owner or manager of a tea estate may grant a certificate to any person employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified:

Provided that <sup>37</sup>[the Central Government] may, by notification in the <sup>38</sup>[Official Gazette], make rules <sup>39</sup>[as respects any restricted recruiting area] directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorised by the District Magistrate in this behalf.

(2) The <sup>40</sup>[Central Government] may make rules <sup>39</sup>[for Assam]—

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(b) prescribing the form and particulars of such certificates.

**29. Cancellation and suspension of recruiter's licence.**—The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act:

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

**30. Cancellation of garden-sardar's certificate.**—(1) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(2) A District Magistrate cancelling a certificate under sub-section (1) shall record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

**31. Penalty for illicit recruitment.**—Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray and travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### CHAPTER V—SUPPLEMENTAL.

**32. Prohibition of the recruitment of children.**—(1) No person shall in any way assist a child to proceed from any recruiting <sup>41</sup>[State] to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband.

(2) Any person who knowingly contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

<sup>38</sup> Subs., *ibid.*, for "local official Gazette".

<sup>39</sup> Ins., *ibid.*

<sup>40</sup> Subs., *ibid.*, for "L. G. of Assam".

<sup>41</sup> Subs. by the A. O. 1950 for "province".

**33. Power to detain and return sick persons.**—(1) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may—

- (a) detain such person and his family,
- (b) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and
- (c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(2) Where it appears that a sufferer detained under sub-section (1) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the home of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited.

**34. Power to return person improperly recruited.**—Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance—

- (a) has been recruited by coercion, undue influence, fraud or misrepresentations, or
- (b) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that such person and his family shall if such person so desires be returned to his home by and at the cost of the employing interest on whose behalf he was recruited.

**35. Power to enforce the provisions of sections 33 and 34.**—(1) If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (1) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(2) In making a direction under sub-section (2) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the <sup>42</sup>[State] where such person then is.

(3) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the costs out of any funds at the Controller's disposal.

(4) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(5) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

<sup>42</sup> Subs. by the A. O. 1950 for "province".

**36. Magistrates and medical officers who may exercise the powers of the Controller.**—(1) Subject to the provisions of sub-section (3) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it.

(3) <sup>43</sup>[The Central Government may invest a District Magistrate or a Sub-Divisional Magistrate in any recruiting <sup>44</sup>[State] and a Sub-Divisional Magistrate in Assam] with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or sub-division, as the case may be.

(4) The <sup>45</sup>[Central Government] may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35.

**37. Power of Central Government to make rules.**—(1) The <sup>46</sup>[Central Government] may, by notification in the <sup>47</sup>[Official Gazette], make rules—

- (a) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act;
- (b) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities;
- (c) prescribing scales of subsistence allowances for the purposes of section 12;
- (d) prescribing the form of agreements under section 14;
- (e) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts;
- (f) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents;
- (g) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder;
- (h) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers;
- (i) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers, and their families, and of their journeys to and from Assam, and prescribing the form of such registers;
- (j) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such

<sup>43</sup> Subs. by the A. O. 1937 for "The L. G. of a recruiting province may invest a District Magistrate or a Sub-Divisional Magistrate and the L. G. of Assam may invest a Sub-Divisional Magistrate".

<sup>44</sup> Subs. by the A. O. 1950 for "province".

<sup>45</sup> Subs. by the A. O. 1937 for "L. G.".

<sup>46</sup> Subs., *ibid.*, for "G. G. in C.".

<sup>47</sup> Subs. *ibid.*, for "Gazette of India".

labourers as the <sup>48</sup>[Central Government] may think expedient for carrying out the purposes of this Act; and

(k) generally, to carry out the purposes of this Act.

(2) The <sup>49</sup>[Central Government] may, by notification in the <sup>50</sup>[Official Gazette], make rules <sup>51</sup>[for Assam] requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(3) <sup>52</sup>[Rules made under this section], may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

**38. Powers to extend the scope of this Act.**—(1) <sup>48</sup>[Central Government] may, by notification in the <sup>53</sup>[Official Gazette], declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(2) <sup>54</sup>[The Central Government] may, by notification in the <sup>50</sup>[Official Gazette], declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (a) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

**39. Saving for acts done in good faith under the Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**40. Bar of jurisdiction of Civil Courts.**—No Civil Court shall have jurisdiction—

(a) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or

(b) to enforce any liability incurred under this Act.

**41. [Repeal of Act VI of 1901 and certain consequences]** *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

**THE SCHEDULE**—*Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

## TEA DISTRICTS EMIGRANT LABOUR RULES, 1933

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<sup>48</sup> Subs. by the A. O. 1937 for "G. G. in C.".

<sup>49</sup> Subs., *ibid.*, for "L. G. of Assam".

<sup>50</sup> Subs., *ibid.*, for "local official Gazette".

<sup>51</sup> Ins., *ibid.*

<sup>52</sup> Subs., *ibid.*, for "In making rules under sub-section (1), the G. G. in C., and in making rules under sub-section (2) the L. G.":

<sup>53</sup> Subs., *ibid.*, for "Gazette of India".

<sup>54</sup> Subs., *ibid.*, for "Subject to the control of the G. G. in C., the L. G. of Assam".



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TEA DISTRICTS EMIGRANT LABOUR RULES, 1933<sup>1</sup>

## CHAPTER I—SHORT TITLE AND DEFINITIONS.

**1. Short title.**—<sup>2</sup>[(1) These rules may be called the Tea Districts Emigrant Labour Rules, 1933.]

<sup>3</sup>[(2) They extend to all Part A States and the Part C States of Ajmer, Coorg, Delhi and Vindya Pradesh.]

**2. Definitions.**—In these rules unless there is anything repugnant in the subject or context,—

- (a) "the Act" means the Tea District Emigrant Labour Act, 1932 (XXII of 1932);
- (b) "Cess" means the Emigrant Labour Cess levied under section 5 of the Act;
- (c) "the Controller" means the Controller of Emigrant Labour appointed under the Act;
- (d) "employer" includes the principal officer of a company or association of individuals owning a tea estate;
- (e) "escort" means the competent person deputed by the local forwarding agent under section 19 of the Act to accompany assisted emigrants and their families on journey to Assam;
- (f) "Form" means a form appended to these Rules;
- (g) "manager" means the principal person for the time being in charge of any tea estate;
- (h) "medical officer" means the nearest medical officer exercising within the area in question any of the powers of the Controller, or where no medical officer exercises any of these powers, the Civil Surgeon;
- (i) "person in charge" means the local forwarding agent in respect of the depot in his charge and includes the person in charge of a depot maintained under section 20 of the Act;
- (j) "section" means a section of the Act.

## CHAPTER II—APPLICATIONS UNDER SECTION 17.

**3. Form of certificate under section 17 (3).**—Certificates granted by the Controller under section 17 (3) shall be in Form A.

**4. Application for certificate under section 17 (3).**—(1) Every application for a certificate in Form A shall be submitted to the Controller.

(2) Every such application shall specify the controlled emigration areas or parts thereof within which the employing interest proposes that the local forwarding agents who may be licensed on its behalf shall be employed, and the areas in Assam to which it is proposed that these agents shall be at liberty to forward assisted emigrants. It shall also contain particulars of the provision made for the forwarding, accommodation and feeding on their journey to Assam of assisted emigrants recruited by or on behalf of the employing interest presenting the application.

**5. Forwarding of copies of certificates by Controller.**—The Controller shall forward a copy of every certificate in Form A granted by him to the State Government of every

<sup>1</sup> These Rules were published with the Government of India, Department of Industries and Labour, Notification No. L3021 (2), dated the 31st July, 1933.

<sup>2</sup> Rule 1 was re-numbered as sub-rule (1) by the Ministry of Labour Notification No. S. R. O. 245 dated the 14th February, 1951.

<sup>3</sup> This sub-rule was inserted, *ibid.*

recruiting State and the District Magistrate of every district forming the whole or part of every controlled emigration area specified in the certificate.

**6. Applications for local forwarding agents' licences.**—(1) All applications for licences under section 17 (1) shall, unless the State Government concerned otherwise directs, be submitted through the Controller.

(2) All applications so submitted shall specify the area within which the persons for whom the licences are desired or intended to act as local forwarding agent and the number of the certificate in Form A held by the applicant.

(3) The Controller, if he is satisfied that the applicant holds a valid certificate in Form A, shall forward the application to State Government or District Magistrate empowered to grant the licences, as the case may be, and may add any observations relating to matters lying within his knowledge which bear on the fitness or unfitness of any person named in the application to receive a license.

**7. Employing interest ceasing to make proper provision.**—(1) If the Controller considers that any employing interest in whose favour he has granted a certificate in Form A has ceased to make proper provision for the forwarding, accommodation or feeding on their journey to Assam of assisted emigrants recruited by that employing interest, he shall forward a report to the Central Government stating the manner in which and the extent to which such proper provision has not been made.

(2) The Controller shall also send a copy of the report to the State Government of every State.

**8. Non-renewal of licences.**—(1) Any State Government receiving a copy of a report submitted by the Controller under rule 7, may, pending the issue of final orders by the Central Government under section 23 or the receipt of a free certificate from the Controller in Form A decline to renew any license which has expired.

(2) No licence which is under suspension by virtue of an order of the Central Government under section 23 shall be renewed while so suspended.

### CHAPTER III—COLLECTION OF CESS AND CERTIFICATES OF EMIGRATION.

**9. Method of collection of cess.**—The cess shall be collected by the Controller by means of the sale of certificates of emigration.

**10. Form and issue of certificates.**—(1) Certificates of emigration shall be on a stamped paper in Form B obtained from the Controller and no certificate shall be valid unless the particulars in Part I of the certificate have been filled in before issue.

(2) Certificates of emigration shall be issued by the Controller either on payment for each certificate of the sum determined under sub-section (3) of section 5 as the rate for the time being of the cess, or on credit as provided by rule 12.

**11. Employing interest to supply certificates.**—(1) Every assisted emigrant shall be provided by the employing interest on whose behalf he was recruited with a certificate of emigration

(2) Certificates of emigration may be used only by or on behalf of the employing interest to whom they are issued, and no certificate of emigration shall be valid if it relates to an assisted emigrant or emigrant labourer recruited by or on behalf of any other employing interest.

**12. Issue of certificates on credit.**—(1) Employing interests at whose instance local forwarding agents have received licenses valid within any controlled emigration area may apply to the Controller for the issue on credit of certificates of emigration, and, save as provided by sub-rules (2) and (3), the Controller shall comply with such request.

(2) The Controller may decline to supply on credit at any one time a larger number of certificates than is, in his opinion, likely to be required by the employing interest during the following three months.

(3) The Controller may decline to supply on credit any certificates to an employing interest which has within the preceding two years defaulted in paying for the certificates as or when required or which has, in his opinion, been responsible for any serious irregularity in the use of the certificates or in the submission of information required in connexion therewith.

(4) Employing interests receiving certificates of emigration on credit shall not be provided with such certificates on payment; and certificates issued on credit may be used in any area, whether that area is a controlled emigration area or not.

**13. Account of certificates.**—(1) Every employing interest receiving certificates shall send to the Controller on or before the date specified in column 2 below a statement in Form C in respect of the period specified in column 1 below:—

Period.	Date.
April, May, June ... ..	15th July.
July, August, September ... ..	15th October.
October, November, December ... ..	15th January.
January, February, March .. ..	15th April.

(2) Employing interests receiving certificates of emigration on credit shall forward with the statement payment for every certificate shown therein as utilized at the rate prescribed for the cess at the time when the certificate was issued to the emigrant.

**14. Entries in Part II of certificates.**—(1) Before forwarding as an assisted emigrant any person who is brought to his depot under section 18, the local forwarding agent shall have the entries made in Part II of the emigrant's certificate of emigration and shall sign it.

(2) If any person who is not required by section 18 to be taken to the depot of a local forwarding agent, is so taken, the local forwarding agent, before forwarding that person as an assisted emigrant, if the entries in Part II of the emigrant's certificate of emigration have not previously been made, shall have those entries made and shall sign the certificate.

(3) If an assisted emigrant or intending assisted emigrant who is not required by section 18 to be taken to a depot of a local forwarding agent has not been so taken, the employing interest on whose behalf he was recruited or some one authorized to act on behalf of that employing interest shall have the entries made in Part II of the emigrant's certificate and shall sign the same:—

(a) before any assistance is given by or on behalf of that employing interest to the emigrant; and

(b) before any money, goods or travelling tickets are given by or on behalf of that employing interest to any person who has assisted the emigrant.

**15. List of certificates.**—The person signing any certificates of emigration under rule 14 shall forward on the same day to the Controller a list of the certificates in Form D signed by him giving the particulars required by that Form:

Provided that no list of certificates need be prepared or sent when a way-bill in Form F is required to be sent, or is sent on the day on which the certificates are signed.

**16. Retention and production of certificates during journey.**—(1) When any assisted emigrants are accompanied by an escort on their journey to Assam, their certificates of emigration and the list of their certificates or the way-bill containing the numbers of these certificates, as the case may be, shall be supplied by the person signing the certificates to the escort.

(2) The escort to whom any certificates of emigration are supplied under sub-rule (1) of this rule, or any escort to whom the charge of accompanying the assisted emigrants may subsequently be transferred, shall retain during the journey the certificates and the list of certificates or way-bill, as the case may be and shall produce them on demand, at any time and at any place where the assisted emigrants are for the time being, before the Controller or any officer authorized by him in writing or any person authorised by or empowered under section 36 to exercise any of the powers of the Controller.

(3) An escort required by any officer under sub-rule (2) of this rule to produce a certificate of emigration shall, if so required, produce before that officer the assisted emigrant to whom it refers and the members of his family whose names are entered on the certificate.

(4) When any assisted emigrant is not accompanied by an escort on his journey to Assam, his certificate of emigration shall be given to him before he is forwarded and shall be retained by him throughout the journey and produced on demand at any time and at any place where the assisted emigrant is for the time being, before the Controller or any officer authorized by him in writing or any person authorized by or empowered under section 36 to exercise any of the powers of the Controller.

**17. Entries to be made on arrival in Assam.**—On the arrival of an assisted emigrant at a depot in Assam, the person in charge of the depot shall, if these entries have not previously been made at any other depot in Assam, make the entries in Part III of his certificate of emigration.

**18. Entries to be made on arrival on tea estate.**—(1) When an assisted emigrant arrives on a tea estate the manager shall make the entries in Part IV of his certificate of emigration and, if this has not already been done, in Part III of that certificate and if the certificate is in the possession of the emigrant on his arrival on the tea estate may demand it for the purpose of making these entries.

(2) After making the entries required by sub-rule 1 and within 48 hours of the assisted emigrant's arrival on the tea estate the manager shall give him his certificate of emigration, and it shall not thereafter be demanded or retained by the employer or the manager or any of their agents except as provided by rule 19.

**19. When manager may hold certificates.**—(1) The manager of any tea estate on which an emigrant labourer is subsequently employed may retain his certificate of emigration for the purpose of making an entry in Part V thereof during the first 48 hours of the emigrant labourer's residence on the tea estate.

(2) A manager who is about to repatriate an emigrant labourer may for the purpose of making an entry in Part VI thereof require his certificate of emigration to be surrendered to him at any time within the 48 hours preceding the labourer's departure from the tea estate on his journey to his home.

**20. Assisted emigrants arriving on tea estate without certificates.**—(1) If any assisted emigrants arrive on a tea estate from a recruiting State without certificates of emigration, the manager shall forthwith send a report of the circumstances to the Controller together with a sum equivalent to the cess on each such emigrant and shall at the same time furnish to the Controller in respect of each such emigrant the names of the person or persons responsible for forwarding the emigrant, the date of the emigrant's entry into Assam and his arrival on the tea estate and the particulars necessary for completing Part II of the emigrant's certificate.

(2) The Controller on receiving such a report and the sum may take such action as he thinks fit in respect of the breach of the rules and shall issue to the manager a certificate of emigration for each emigrant mentioned in the report.

**21. Entry into Assam without certificate.**—(1) The Controller may present the employing interest by or on whose behalf any emigrant labourers were recruited a demand for the payment of the cess on any such labourer who has entered Assam without a certificate, and may require the said employing interest to furnish him with the names of the person or persons responsible for forwarding the emigrant labourer, the date of the labourer's entry into Assam and his arrival on the tea estate and the particulars necessary for completing Part II of the labourer's certificate of emigration.

(2) The Controller on receiving the said payment and particulars may take such action as he thinks fit in respect of the breach of the rules and shall issue a certificate of emigration for the labourer to the manager of the tea estate to which the labourer was sent.

**22. Delivery of certificate by manager.**—The manager of a tea estate on receipt of a certificate of emigration under rule 20 or rule 21 shall, after making the entries in Parts III and IV, and within 24 hours of its receipt deliver it to the labourer and it shall not thereafter be demanded or retained by the employer or the manager or their agents except as provided by rule 19.

**4[22A. Issue of duplicate certificate of emigration.**—(1) When a certificate of emigration is lost or destroyed, an application for the issue of a duplicate thereof may be made by the emigrant labourer or his employer, to the Controller.

(2) Such application shall be accompanied by a fee of rupee one

(3) On receipt of such application and the fee, the Controller shall, if satisfied, after making such enquiry as he thinks fit, that the certificate is lost or destroyed, issue a duplicate thereof to the applicant.]

**23. Certificate to be of correct year.**—Subject to the provisions of rules 24 and 25 no certificate of emigration shall be valid unless the emigrant to whom it refers enters Assam during the year entered in Part I of the certificate.

**24. Use of certificate of preceding year.**—If the rate of the cess for any year is the same as that for the preceding year, all certificates of emigration valid for the preceding year shall be valid also for the subsequent year.

**25. Labourer entering Assam in different year from that of certificate.**—(1) If an emigrant labourer who has been provided with a certificate of emigration of any year in the expectation that he would enter Assam in that year enters Assam in a different year:—

(a) the certificate of emigration shall, subject to any directions issued by the Controller, be treated as valid, and

(b) the difference between the cess payable on that emigrant's entry and the amount paid for his certificate shall be refunded by the Controller or recovered from the employing interest as the case may be.

<sup>4</sup> This Rule was inserted by the Ministry of Labour Notification No. S. R. O. 3282 dated the 15th October, 1954.

(2) Where under sub-rule (1) an amount is due to be refunded to or recovered from an employing interest receiving certificates of emigration on credit the amount of the refund or recovery shall be adjusted in the first payment due under rule 13 in the year of entry of the emigrant labourers in respect of whose certificates the refund or recovery is due.

(3) Where under sub-rule (1) an amount is due to be refunded to or recovered from an employing interest not receiving certificates on credit the Controller shall remit any refund due to the employing interest, and the employing interest shall remit the amount of any recovery to the Controller with a statement in Form E.

(4) This Rule shall not apply unless the rate of the cess for the year entered in the certificate of emigration differs from the rate for the year in which the emigrant labourer entered Assam.

**26. Action following alteration in rate of cess.**—If the rate of the cess is altered, every employing interest receiving certificates of emigration during the year preceding that to which the altered rate is applicable shall send, on or before the 1st October of the year to which the altered rate is applicable, a statement in Form E.

**27. Return and recall of certificates.**—(1) The employing interest shall return to the Controller any certificates of emigration issued to it which have ceased to be valid by reason of a change in the rate of the cess.

(2) Certificates which cannot be used by reason of being defaced or torn or of the failure of the emigrant for whom they were prepared to enter Assam may be returned to the Controller.

(3) The Controller, after giving not less than one month's notice and making such arrangements for the provision of fresh certificates as may be necessary, may recall any or all of the certificates in the possession of any or all employing interests and any certificates so recalled shall be returned to the Controller within 15 days of the receipt of notice.

(4) If any certificates returned under this rule were issued on payment the Controller shall refund to the employing interest concerned the amount paid on the certificates:

Provided that the Controller may deduct a sum not exceeding two annas for each certificate returned under sub-rule (2).

(5) If any certificates returned under sub-rule (2) were issued on credit the Controller may require that a sum not exceeding two annas for each certificate shall be paid by the employing interest concerned and this sum shall be forwarded with the next following statement due under sub-rule (1) of rule 13.

**28. Recovery of Cess.**—(1) Any payment due under this Chapter on account of the cess shall be deemed to be an arrear if it is not paid on the date specified in these rules, or where no date is specified, before the expiry of ten days from the receipt of a demand from the Controller.

(2) An arrear of cess shall be recoverable as an arrear of land revenue.

(3) The Controller may certify any sum forming the whole or part of an arrear of cess to the Collector of any district in which the defaulting employing interest or any member of it has any property, and the Collector shall proceed to recover the sum certified and shall remit the sum recovered to the Controller.

#### CHAPTER IV—FORWARDING OF ASSISTED EMIGRANT.

**29. Application of Chapter.**—The rules in this Chapter apply only to the forwarding of assisted emigrants who are required to be taken or sent to a local forwarding agent's depot under section 18.

**30. Despatch of emigrants.**—The local forwarding agent shall despatch an assisted emigrant on his journey to Assam within 48 hours of his arrival at the depot unless the emigrant is detained in accordance with the rules made under clause (8) of sub-section (1) of section 21 or under the provision of section 33, section 34 or section 35, or unless the local forwarding agent considers it necessary to detain the emigrant longer owing to his sickness or in order to investigate the circumstances of his recruitment or for other sufficient reason.

<sup>5</sup>[**31. Permissible routes to Katihar.**—(1) The permissible routes for the forwarding of assisted emigrants from controlled emigration areas are those specified in the Schedule appended to these rules.

<sup>5</sup> Rules 31 and 32 substituted by Ministry of Labour Notification No. A.L. 136/FMG (1) dated the 12th April, 1950.

(2) Except as provided by sub-rule (3) the journeys between any places specified in the Schedule appended to these rules shall be performed by rail and by the most direct route passing through India.

(3) The journeys from the depot of the local forwarding agent by whom the emigrant has been despatched to the first of the points through which an emigrant must pass in accordance with the Schedule appended to these rules shall be made by rail from the railway station nearest the depot or from such other railway station as the Controller may approve for this purpose in the case of any depot specified in his order, and by the most direct route passing through India:

Provided that if the Controller is satisfied that, in consequence of a breach in the line or other cause, a permissible route cannot conveniently be followed, he may, by order valid for such period not exceeding one month as he may direct, permit the use of any alternative route specified in his order.

**32. Permissible routes from Katihar.**—Assisted emigrants leaving or passing through Katihar shall be forwarded by rail by the most direct route \*[passing through India] to Amingaon or Tezpur:

Provided that emigrants proceeding to tea estates in the Goalpara, Kamrup or Darrang districts or in the Balipara Frontier Tract may be forwarded from Golakganj to the tea estate by the most direct route \*[passing through India.]

\*[Provided further that, if the Controller is satisfied that, in consequence of a breach in the line or other cause assisted emigrant cannot be forwarded from Katihar by the most direct route passing through India, he may by order valid for such period not exceeding one month as he may direct, permit the use of any alternative route specified in his order.]

**33. Way-bills.**—(1) Every local forwarding agent forwarding assisted emigrants to Assam shall prepare three copies of a way-bill in Form F correctly filled in and signed by him in respect of each estate to which emigrants are being sent.

(2) One copy of the way-bill shall be given to the escort accompanying the emigrants and shall be retained by him or any subsequent escort throughout the journey to the tea estate, a second copy shall be sent to the Controller on the day on which the emigrants are despatched and the remaining copy shall be retained by the local forwarding agent in his depot for a period of not less than four years:

Provided that where a register is maintained giving an accurate reproduction of the particulars given in the schedule of the way-bill, and its serial number, it shall not be necessary to retain a copy of the way-bill in the depot.

**34. Escorts' badges.**—The local forwarding agent shall issue to each escort employed for the purpose of accompanying assisted emigrants from his depot a badge bearing the name of the depot and a separate serial number, and the escort shall wear this badge in a conspicuous manner while accompanying assisted emigrants

**35. Detraining of emigrants.**—When assisted emigrants are forwarded by train, the escort shall, unless he has the general or special sanction of the Controller to the contrary, detrain them at least once every 24 hours for the purpose of enabling them to have a cooked meal outside their compartments. He shall also detrain them for a rest of at least 9 hours in every 48 hours of travel by rail.

**36. Lepers.**—No forwarding agent shall forward to Assam either as an assisted emigrant or as a member of the family of an assisted emigrant any person whom he knows or has reason to suspect to be suffering from leprosy.

#### CHAPTER V—PROCEDURE TO BE FOLLOWED ON THE OCCURRENCE OF DEATH OR INFECTIOUS OR CONTAGIOUS DISEASES.

**37. Outbreak of infectious or contagious disease.**—(1) If cholera, small-pox, plague, enteric, influenza or other serious epidemic, infectious or contagious diseases occurs in any depot in which assisted emigrants or members of their families are usually accommodated the person in charge of the depot shall take immediate steps to secure the removal of the person attacked to the nearest available hospital accommodating infectious or contagious cases or to such other place as the medical officer may have approved for the purpose and shall report the occurrence \*[immediately, to the medical officer, the district magistrate

\* These words were inserted by the Ministry of Labour Notification No. S. R. O. 3282 dated the 15th October, 1954.

\* This proviso was inserted, *ibid.*

\* These words were substituted for the words "without delay to the medical officer" by the Ministry of Labour Notification No. A. L. 136/EMG(1) dated the 12th April, 1950.

and the Controller. The person-in-charge of the depot shall also send weekly reports to the medical officer, the district magistrate, and the Controller, stating the steps taken to control the disease and the extent to which it has been brought under control.]

(2) If cholera, small-pox, plague, enteric, influenza or other serious epidemic, infectious or contagious disease occurs among assisted emigrants or their families while on a journey, the escort shall at once report the occurrence to the medical officer and arrange for the removal, as soon as possible, of the person attacked to the nearest available hospital accommodating infectious or contagious cases or to such other places as the medical officers may have approved for the purpose. He shall take the remaining emigrants to the nearest depot maintained or used by the employing interest concerned.

(3) All cases of and deaths from cholera, small-pox, plague, enteric and influenza shall be notified at once to the medical officer.

(4) The person in charge of a depot shall maintain a separate register for cases of and deaths from such diseases.

(5) The person in charge of a depot shall provide clean towels and basins in sufficient numbers at the depot and shall stock therein sufficient quantities of disinfectants such as chlorinated lime, permanganate of potash, cyllin and cyllin soap.

(6) The person in charge of a depot shall carry out all instructions given to him by the medical officer, <sup>9</sup>[the District Magistrate and the Controller] in connexion with any infectious or dangerous disease which has broken out at the depot.

**38. Segregation sheds.**—(1) A permanent segregation shed with sufficient accommodation for at least ten patients shall be provided for each depot at such distance from the quarters used for the accommodation of emigrants as the medical officer may direct.

(2) The Controller may exempt any depot from the necessity of having a permanent segregation shed or may reduce the scale of accommodation to be supplied.

(3) On the outbreak at a depot of cholera, small-pox or other dangerous or infectious disease, the medical officer may, if he is satisfied that the existing provision is likely to prove inadequate, require the person in charge to erect or secure further temporary accommodation for the segregation and treatment of patients of contact cases.

**39. Arrangements for disposal of bodies.**—The person in charge of a depot shall make all necessary arrangements for the disposal, either by burning or burial, of the bodies of assisted emigrants or members of their families, or intending assisted emigrants, in his charge, who die either in his depot or in the hospital, and shall defray all expenses connected therewith.

**40. Death of assisted emigrants.**—<sup>10</sup>[(1)] If an assisted emigrant dies in a depot or in a hospital or during a journey by road, rail or steamer the person in charge of the depot or the escort, as the case may be, shall hand over the property of the deceased emigrant to his relatives if any are present. If no relation is present or if there is any dispute among the relatives present, the person in charge of the depot or the escort shall make a list of the property and forward it with the list to the nearest District or Sub divisional Magistrate, who shall, after making enquiry as to the heirs dispose of the property.

<sup>11</sup>(2) If an emigrant labourer having no family residing with him dies, the Manager of the tea estate shall, immediately after the death occurs, take into safe custody the property left behind by the deceased and send a report, by registered post, to the Controller who will inform the next-of-kin of the death and make arrangements for the disposal of the property among the heirs of the deceased.]

#### CHAPTER VI—REGISTERS AND RETURNS

**41. Register of emigrant labourers.**—(1) The employer or manager of every tea estate which employs emigrant labourers shall maintain at the estate a register of emigrant labourers and their families in Form G <sup>12</sup>[and where the emigrant labourer is a person who, having accompanied an assisted emigrant to Assam as a child dependent upon him, has become an adult and is so employed, a report of the entry of his name in such register shall be sent to the Controller within fourteen days of the date of such employment.]

(2) The register in Form G shall be preserved for at least seven years after the last entry recorded in it.

<sup>9</sup> These words were inserted, *ibid*.

<sup>10</sup> Rule 40 renumbered as sub-rule (1) by the Ministry of Labour Notification No. A. L. 136/EMG(1) dated the 12th April, 1950.

<sup>11</sup> This sub-rule was inserted, *ibid*.

<sup>12</sup> These words were added by the Ministry of Labour Notification No. S. R. O. 3282 dated the 15th October, 1954.



<sup>13</sup>[42. **Repatriation return.**—The employer or manager of every tea estate which has during the period of twelve months ending on the 30th September in any year employed any emigrant labourers shall

- (a) send to the Controller within ten days from the date of repatriation of an emigrant labourer who is repatriated during the said period of twelve months, a report containing the names and other particulars of the emigrant labourers and the members of his family, if any, as well as his emigration certificate number; and
- (b) send to the Controller on or before the 1st November in that year—
  - (i) a return in Form H of all such labourers and their families as have been repatriated under the provisions of Chapter II of the Act during the said period of twelve months; and
  - (ii) a report containing the following particulars namely:—(a) the name together with the emigration certificate number of every emigrant labourer who has not availed himself of the right of repatriation during the said period of twelve months or who intends to exercise that right at some later date; (b) the date of entry in Assam of every such emigrant labourer; (c) the date of execution of the agreement under section 14 in respect of every such emigrant labourer and (d) the approximate period during which the right of repatriation would be exercised.]

#### CHAPTER VII—PROCEEDING BEFORE THE CONTROLLER OR OTHER OFFICERS.

43. **Presentation of applications.**—(1) An application to the Controller for the exercise of any power conferred on him by Chapter II of the Act may be presented in person or by post—

- (a) at the office of the Controller or to the Controller himself at any place where he is for the time being, or
- (b) to the District Magistrate of the district in which the labourer to whom it relates is employed.

(2) Applications shall be made in writing and shall bear the signature or thumb impression of the applicant.

Provided that if the officer to whom the application is presented is within the tea estate in which the labourer to whom it relates is employed, the application may be made orally and if so made shall be reduced to writing and attested under his supervision.

44. **Forwarding of applications to Controller.**—When the District Magistrate receives an application under clause (b) of rule 43, he shall forward it to the Controller in any of the following cases, namely:—

- (a) if at the time of its receipt the Controller is in the district and has previously intimated his arrival or intention to arrive in the district to the District Magistrate;
- (b) if the Controller has intimated to the District Magistrate that he will be staying in the district within a period of 20 days;  
Provided that in this case the District Magistrate may dispose of the application if he is of opinion that it is urgently necessary that the application should be disposed of before the Controller is likely to reach the district;
- (c) if it is an application for a declaration in pursuance of clause (d) of sub-section (1) of section 10;
- (d) if, for special reasons to be recorded, he considers it desirable that the application should be placed before the Controller.

45. **Disposal of applications.**—(1) The District Magistrate shall dispose of—

- (a) any application received under clause (b) of rule 43 which is not forwarded to the Controller under rule 44; and
- (b) any application, whether presented originally to him or to the Controller, which is transferred to him under sub-section (2) of section 36.

(2) All other applications to the Controller for the exercise of a power conferred by Chapter II of the Act shall be disposed of by the Controller.

46. **Procedure.**—Enquiries held under the Act by the Controller may be held summarily and evidence taken need not be recorded. Where, however, an application made to him for a declaration or direction under Chapter II of the Act is opposed, he shall record the substance of the points on which the parties are at variance and the reasons for his declaration or direction.

<sup>13</sup> Substituted, *ibid.*

**47. Orders.**—(1) Any declaration, direction or order by the Controller in any proceedings under the Act shall be in writing.

(2) Every such order shall be communicated to the parties concerned without delay.

**48. Copy to be sent to Government of India.**—A copy of every order passed under clause (d) of sub-section (1) of section 10, with the reasons therefor, shall be forwarded by the Controller to the Secretary to the Government of India in the <sup>14</sup>[Ministry of Labour].

**49. Copies.**—Copies of any part of the record made under rule 46 and of any declaration, direction or order made by the Controller shall be furnished to any person concerned on payment of such fee as the Controller may fix.

**50. Meaning of "the Controller".**—In rules 46, 47 and 49, the expression "the Controller" shall be deemed to include any person exercising the powers of the Controller under the Act.

**51. Return of applications decided.**—When a District Magistrate disposes of any application under the provisions of sub-rule (1) of rule 45 he shall send to the Controller a statement in Form I at the close of the month in which orders were passed on such applications.

#### CHAPTER VIII—OFFENCES AND IRREGULARITIES

**52. Action by Controller on offences punishable with imprisonment.**—(1) If it appears to the Controller that an offence punishable under the Act with imprisonment has been committed he shall send a report to the District Magistrate of a district in which the offence can be tried and may file a complaint in the Court of any Magistrate in the same district having jurisdiction to try the offence.

(2) If he has filed such a complaint he shall in his report inform the District Magistrate accordingly.

(3) If he does not file such a complaint, he shall in his report state, whether in his opinion, the offender should or should not be prosecuted and the District Magistrate, after any further inquiry that he deems necessary, shall institute proceedings or not as he deems fit, and shall inform the Controller accordingly.

**53. Action by Controller on offences punishable with fine.**—(1) If it appears to the Controller that an offence punishable with fine only has been committed he shall, if he considers that the offender should be prosecuted, either send a report to the District Magistrate of any district in which the offence can be tried or file a complaint in the Court of any Magistrate having jurisdiction to try the offence.

(2) A District Magistrate receiving a report under sub-rule (1) shall, after any further enquiry that he deems necessary, institute proceedings or not, as he thinks fit, and shall inform the Controller accordingly.

**54. Saving.**—Nothing in rules 52 and 53 shall be deemed to prevent the institution of proceedings at any stage by complaint or otherwise by any person in any court having jurisdiction to try an offence under the Act or these rules.

**55. Action by depot officers in case of improper recruitment.**—(1) Where a local forwarding agent or a person in charge of a depot receives a complaint or has otherwise reason to believe that a person who has been brought to him and who is proceeding to a tea estate or who has reached the tea estate with assistance—

- (a) has been recruited by coercion, undue influence, fraud or misrepresentation, or
- (b) has been recruited or forwarded otherwise than in accordance with the provisions of the Act and the rules made thereunder, he shall report the circumstances without delay to the Controller and to the nearest Magistrate exercising powers of the Controller under section 34 within that area, and may, pending the receipt of any order under section 34, return the person improperly recruited and his family to their home if such person so desires.

(2) In cases, where an offence under section 25 or section 32 appears to have been committed, the local forwarding agent or the person in charge of a depot shall record the statement of any persons who are able to give information relevant to the commission of the offence.

(3) In other cases the local forwarding agent may forward the person and his family to Assam if they are willing to proceed there and if, in the case of persons suspected to have been recruited by coercion, undue influence, fraud or misrepresentation, he is satisfied that they are no longer under any fear or misapprehension.

<sup>14</sup> Substituted for "Department of Labour" by the Ministry of Labour Notification No. AL136/EMG (1) dated the 12th April, 1950.

<sup>15</sup>[55A. Duties of persons engaged in recruiting labourers.—Every person engaged in the recruitment of labourers shall give to the local forwarding agent to whom he is attached, a true account of every labourer recruited by him, and shall correct any misdescription of any such labourer or of any member of the family of such labourer, which is given by such labourer and which such person knows to be incorrect or has reason to believe to be incorrect.]

56. Issue of orders under Section 34.—(1) When any report is sent under rule 55 to a Magistrate and to the Controller, any necessary orders under section 34 shall be issued by the Magistrate receiving the report and not by the Controller, provided that the Magistrate may, and, if the Controller is in the vicinity of the depot, shall refer any such case to the Controller. When any such reference is made to him, the Controller may dispose of the case himself or return it to the Magistrate for disposal.

(2) When any order is passed either on the receipt of a report under rule 55 or on other information by a Magistrate exercising the powers of the Controller under section 34 such Magistrate shall send a copy of the order to the Controller.

(3) When it appears to the Controller or any Magistrate exercising the powers of the Controller under section 34 that in any case not reported under rule 55 an order under section 34 is necessary the order may notwithstanding the provisions of sub-rule (1) be issued by him:

Provided that no order shall be issued by any such officer if another such officer has previously investigated the matter:

Provided further that the Controller instead of issuing orders may report the matter to any Magistrate empowered to deal with it for such action as that Magistrate deems necessary.

57. Punishment for contraventions of rules.—Whoever contravenes any of the provisions of rules 11 or 15 shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes any of the provisions of Chapter VI of these rules shall be punishable with fine which may extend to two hundred rupees.

(3) Whoever, not being an escort, contravenes any of the provisions of rules 14, 16, 17, 18, 20, 22, 26, 27, 55, 60 (2), or of Chapter V of these rules shall be punishable with fine which may extend to two hundred rupees.

<sup>16</sup>[(4) Whoever, contravenes any of the provisions of rule 55A shall be punishable with fine which may extend to one hundred rupees.]

#### CHAPTER IX—MISCELLANEOUS

58. Subsistence allowance.—<sup>17</sup>[(1)] The subsistence allowance provided under section 12 shall be at the rate of <sup>18</sup>[one rupee and eight annas] a day for each adult and <sup>19</sup>[twelve annas] a day for each child.

20 \* \* \* \*

<sup>21</sup>[(2) An emigrant labourer who is being repatriated to the organisation by which he was originally sent to Assam, shall be entitled to receive the same facilities in respect of accommodation, medical attention, detention, rest at interval and meals of the type and on the scales prescribed as in the case of the upward journey:

Provided that in lieu of meals he may be paid subsistence allowance at the rate specified in sub-rule (1)].

59. Agreements under section 14.—(1) Agreements under section 14 shall be in Form J.

<sup>22</sup>[(2) The employer or manager of the tea estate, on which the emigrant labourer executing the agreement was employed at the time the agreement was made, shall retain the agreement—

<sup>15</sup> Inserted by Notification No. 3282 dated the 15th October, 1954.

<sup>16</sup> Substituted, *ibid.*

<sup>17</sup> Rule 58 was re-numbered as sub-rule (1) by the Notification No. A. L. 316/EMG/(1) dated the 12th April, 1950.

<sup>18</sup> Substituted for the words "six annas" *ibid.*

<sup>19</sup> Substituted for the words "three annas," *ibid.*

<sup>20</sup> The proviso omitted, *ibid.*

<sup>21</sup> This sub-rule was added, *ibid.*

<sup>22</sup> Substituted by the Notification No. 3282 dated the 15th October, 1954.

(a) Where it is for the postponement of the exercise of the right of repatriation, for a period of two years from the expiry of the period for which such right is postponed, and;

(b) Where it is for the waiver of the right of repatriation, for a period of two years from the date of execution of the agreement and every such employer shall, if so required by the Controller or any officer exercising the powers of the Controller under section 4, produce the agreement at any time during the period concerned.]

(3) If the agreement is conditional it shall be prepared in duplicate and a copy shall be given to the emigrant labourer executing it.

**60. Right of repatriation arising in family of deceased labourer.**—(1) Where a right of repatriation arises under section 9 in respect of a widow, an agreement by the widow under section 14 (1) shall be made before the District Magistrate or such other Magistrate as he may appoint in this behalf, who shall, if he is satisfied that the widow understands the terms of the agreement and her rights in regard to repatriation ratify the agreement by endorsing a statement to this effect upon it.

(2) Where a right of repatriation arises under section 8 in respect of the family of a deceased emigrant labourer who leaves no widow, the manager of the tea estate on which the emigrant labourer was employed shall send to the Controller within three days of the labourer's death a report of the fact by registered post, giving the name, age and sex of each member of the family, and may with the report submit for the Controller's approval proposals for the action to be taken in respect of the family.

<sup>23</sup>[**61. Medical arrangement or the general sanitary conditions of a depot.**—Any directions given by the Controller regarding improvement of the general sanitary conditions of the depot or of its medical arrangement shall be carried out within a reasonable time specified by the Controller. Non-compliance with any such directions within the time fixed shall render the license of the person in charge of the depot liable to cancellation by the Controller.

**62. Maintenance of ration accounts.**—Each depot shall maintain regular account of ration issued to a worker in such form that information about the issue of ration to each worker or his or her family is easily available from the ration register.]

<sup>24</sup>[**63. Report on emigrant labourer quitting employment.**—The employer or manager of a tea estate shall send to the Controller by registered post a report giving the names of emigrant labourers who have quitted their employment otherwise than in exercise of their right of repatriation or who have been transferred to another estate within ten days of the event. The report shall contain the date on which such labourer quitted his employment or was transferred as the case may be and also the reasons thereof as far as they are known.]

#### <sup>25</sup>[SCHEDULE

(See Rule 31)

#### *Permissible Routes from controlled Emigration Areas to Katihar*

Where the depot of the Local Forwarding Agent despatching the emigrants is in	The route shall pass through the following places
1	2
1. The State of Madras	(1) Berhampur, Kharagpur, Howrah, Naihati, Bandel, Sahibganj or (2) Berhampur, Kharagpur, Howrah, Bandel, Sahibganj.
2. The Nagpur Division of the Madhya Pradesh.	(1) Gondia, Raipur, Chakradharpur, Kharagpur, Howrah, Bandel, Sahibganj or (2) Gondia, Raipur, Chakradharpur, Purulia, Asansol, Burdwan, Sahibganj or (3) Gondia, Raipur, Chakradharpur, Purulia, Asansol, Ondal, Sainthia, Sahibganj.

<sup>23</sup> Rules 61 and 62 were added by the Notification No. A. L. 136/EMG(1) dated the 12th April, 1950.

<sup>24</sup> Added by the Notification No. 3282 dated the 15th October, 1954.

<sup>25</sup> The Schedule was substituted by the Notification No. A.L. 136/EMG(1) dated the 12th April, 1950.

- |  |   |
|--|---|
| 3. The Jubbulpore Division of the Madhya Pradesh.                    | (1) Katni, Allahabad, Asansol, Burdwan, Sahibganj or<br>(2) Katni, Bilaspur, Chakradharpur, Kharagpur, Howrah, Bandel, Sahibganj or<br>(3) Gondia, Bilaspur, Chakradharpur, Kharagpur, Howrah, Bandel, Sahibganj or<br>(4) Katni, Bilaspur, Chakradharpur, Purulia, Asansol, Burdwan, Sahibganj or<br>(5) Gondia, Bilaspur, Chakradharpur, Purulia, Asansol, Burdwan, Sahibganj or<br>(6) Katni, Allahabad, Asansol, Ondal, Sainthia, Sahibganj or<br>(7) Katni, Bilaspur, Chakradharpur, Purulia, Asansol, Ondal, Sainthia, Sahibganj or<br>(8) Gondia, Bilaspur, Chakradharpur, Purulia, Asansol, Ondal, Sainthia, Sahibganj. |
| 4. The Chattisgarh Division of the Madhya Pradesh.                   | (1) Chakradharpur, Kharagpur, Howrah, Bandel, Sahibganj or<br>(2) Chakradharpur, Purulia, Asansol, Burdwan, Sahibganj or<br>(3) Chakradharpur, Purulia, Asansol, Ondal, Sainthia, Sahibganj.  |
| 5. Sambalpur District.   | (1) Chakradharpur, Purulia, Asansol, Burdwan, Sahibganj or<br>(2) Chakradharpur, Kharagpur, Howrah, Bandel, Sahibganj or<br>(3) Chakradharpur, Purulia, Asansol, Ondal, Sainthia, Sahibganj   |
| 6. The State of Orissa except Sambalpur.                             | (1) Kharagpur, Howrah, Naihati, Bandel, Sahibganj or<br>(2) Kharagpur, Howrah, Bandel, Sahibganj.   |
| 7. Hazaribagh and Palamau Districts.                                 | (1) Asansol, Burdwan, Sahibganj or<br>(2) Asansol, Ondal, Sainthia, Sahibganj.  |
| 8. The Chota Nagpur Division of Bihar except Hazaribagh and Palamau. | (1) Asansol, Burdwan, Sahibganj or<br>(2) Kharagpur, Howrah, Bandel, Sahibganj or<br>(3) Asansol, Ondal, Sainthia, Sahibganj  |
| 9. Any part of Bihar not specified above.                            | Sahibganj, Katihar.   |
| 10. The Uttar Pradesh.   | Saran, Katihar.   |
| 11. The Presidency and Burdwan Divisions of West Bengal.             | Sahibganj, Katihar ]  |

## FORM A.

## TEA DISTRICTS EMIGRANT LABOUR ACT.

*Certificate granted under section 17 (3)*

Number of certificate.....

I certify that the following employing interest, namely ..... has made proper provision, in accordance with section 20 of the Tea Districts Emigrant Labour Act and rules made under section 21 of that Act for the forwarding, accommodation and feeding of assisted emigrants on their journey from the controlled emigration areas (or parts thereof) hereinafter specified to all the tea districts of Assam.

The tea districts (or parts thereof) hereinafter specified.

Controlled Emigration Areas (or parts thereof)

Tea Districts.

Dated

*Controller of Emigrant Labour.*

TEA DISTRICTS EMIGRANT LABOUR RULES, 1933

FORM E

CERTIFICATE OF EMIGRATION (OBVERSE).  
Emigrant Labour Cess.

PART I.

Serial number Issued to Valid for year ending 19

PART II.

*Personal particulars of emigrant.*

Name. Father's name. Husband's  
Age..... Sex. Caste.  
Village..... Post Office.....  
Police station..... District.  
Name of recruiter (if any).....

Particulars of height and distinguishing marks. Right and left thumb impressions.

Members of family accompanying emigrant:—

Name. Age. Sex. Relationship.

Serial number of way bill or  
list of certificates.....  
Place of making entries.....

(Sd.)  
Designation

Date

CERTIFICATE OF EMIGRATION (REVERSE)

PART III.

*Arrival in Assam.*

This emigrant arrived in Assam on day of 19  
Date (Sd )  
Place Designation

PART IV.

*Arrival on Tea estate.*

This labourer arrived on this tea estate on the day of 19  
Estate (Sd.)  
Date Manager,

## INDIAN LABOUR CODE

## PART V.

*Details of employment.*

(These entries are optional and may be made when a labourer is employed on an estate other than the estate mentioned in Part IV).

(a) This labourer was taken into employment on the undermentioned estate on the day of 19 .  
Estate

(Sd.)

Manager,

Date

(b) This labourer was taken into employment on the undermentioned estate on 19 .  
Estate

(Sd.)

Manager,

Date

## PART VI.

*Repatriation.*

(These entries are conditional and may be made when the holder is proceeding out of Assam)  
This labourer leaves this tea estate to-day on his journey to Estate

(Sd.)

Manager,

Date

## FORM C.

Return for the quarter ending of certificates of emigration received, used and held by

- (1) Number of certificates held at close of previous quarter, as per Schedule appended
- (2) Number of certificates received during quarter, as per Schedule appended
- (3) Add (1) and (2)
- (4) Number of certificates used during quarter, as per Schedule appended
- (5) Number of certificates held at close of quarter
- (6) Amount of remittance enclosed Rs

Signature

Date

## SCHEDULE SHOWING SERIAL NUMBERS OF CERTIFICATES

1	2
Serial numbers of certificates held at end of previous quarter.	Serial numbers of certificates used during quarter.
Serial numbers of certificates received during the quarter.	

NOTE.—Numbers in column 2 should be entered opposite the same numbers in column 1.

## FORM D.

## LIST OF CERTIFICATES OF EMIGRATION ISSUED IN FAVOUR OF ASSISTED EMIGRANTS

Serial Number

No.	Name	Issuing certi	Place at which	Date of emigran	Father's Name	Caste.	Sex.
-----	------	---------------	----------------	-----------------	---------------	--------	------

Date.

Signed

## FORM E.

RETURN OF EMIGRANT LABOURERS ENTERING WITH CERTIFICATES NOT VALID FOR  
YEAR OF ENTRY

Names.	Date of issues.	Serial number.
I. Labourers entering with certificates of years preceding year of entry.		
Total ...		
II. Labourers entering with certificates of year following year of entry.		
Total ...		

	Rs.
Charges on account of certificates—	
(a) in list I ... ..	
(b) in list II ... ..	
Total ...	
Emigrant labour cess on account of labourers—	
(a) in list I ... ..	
(b) in list II ... ..	
Total ...	
Amount due <u>to</u> employing interest Rs.	
<u>from</u>	
Dated	Sd.....

## FORM F.

(Separate forms should be prepared for each estate.)

Way Bill of Assisted Emigrants forwarded by Local Forwarding Agents to Assam.  
Employing interest represented.....

NOTE.—In the case of members of the emigrant's family accompanying him, entries need be made only in columns 5, 8, 9 and 11.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Serial No. of emigrant.	Serial No. of emigration certificate.	Tea estate to which forwarded	Date of arrival at Depot.	Name of emigrant or member of family.	Father's Name.	Caste.	Age.	Sex.	Distinguishing marks.	Relationship of members of family to emigrant.	Home Village.	Police Station.	District.	How recruited.	Date of departure from Depot.	Name and number of escort.	Date of entry into Assam

Date.....

Sd.  
Local Forwarding Agent.



1	Serial No.
2	Name of certificate of emigration.
3	Name of emigrant labourer.
4	Father's Name.
5	Caste
6	Home village
7	Police station
8	District
9	Date of entry into Assam.
10	Depot from which recruited.
11	Date of repatriation.
12	If repatriated through a Forwarding Agency, state which Agency.
13	Names of members of family repatriated with emigrant labourer.
14	Relationship.
15	Remarks.

## RETURN OF REPATRIATION OF EMIGRANT LABOURERS LEFT

## FORM H.

Serial No.
No. of certificate of emigration.
Name of labourer.
Father's Name.
Caste.
Age
Home Village.
Police Station.
District.
Names of members of family residing with him.
Relationship to labourer.
Depot from which forwarded under sections 18 and 19.
Date of entry of labourer into Assam.
Date of arrival on garden.
Particulars of previous employment in Assam if labourer was not recruited direct from recruiting state.
Date of repatriation and how effected, i.e., whether through forwarding agent or by employing interest direct.
If repatriations waived or postponed, date of execution of document under sec. 14.
Remarks.

## FORM OF REGISTER OF EMIGRANT LABOURERS EMPLOYED IN TEA ESTATE

## FORM G.

## FORM I.

## TEA DISTRICTS EMIGRANT LABOUR ACT, 1932

Applications under Chapter II of the Act disposed of by the District Magistrate  
during the month of 19 :

Tea estate.	Application.	Section.	Sub-section.	Clause.	Decision.

(Sd.).....  
District Magistrate.

## FORM J.

## FORM OF AGREEMENT UNDER SECTION 14 OF THE TEA DISTRICTS EMIGRANT LABOUR ACT

Name and Postal address.....  
 Name of emigrant labourer. ....  
 Father's name.....  
 Date of entry into Assam ..  
 Name of estate to which the emigrant was originally recruited.....  
 Date on which right of repatriation arises.....  
*Details of members of the family of the emigrant labourer entitled to be repatriated with him*

Name.	Age.	Sex.	Relationship.

## FORM TO BE SIGNED BY THE EMIGRANT LABOURER

I, ....., son of.....  
 being entitled to repatriation under Chapter II of the Tea Districts Emigrant Labour Act  
 do hereby postpone my right till (on account of the following consideration received  
waive my right to be received  
 from my employer):—  
 2. My waiver is subject to the following conditions:—  
 Signature or thumb impression of emigrant labourer  
 Date.....  
 Signature of witness.....  
 Date.....

## FORM TO BE SIGNED BY THE EMPLOYER OR MANAGER OF THE TEA ESTATE

I agree to and confirm the above statement made by

2. I hereby declare that the contents of this document were read out and explained to \_\_\_\_\_ in his own language before he \_\_\_\_\_ signed it \_\_\_\_\_ affixed his thumb impression and I believe that he understood their import.

Signature of Employer or Manager of Tea Estate.....

Date.....

Signature of witness.....

Date.....

**Emigrant Labour Cess<sup>1</sup>**

In exercise of the powers conferred by sub-section (3) of section 5 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932), the Central Government hereby determines that the rate of the Emigrant Labour Cess to be levied under the said section in respect of the entry into Assam of each assisted emigrant shall be rupees five for the year commencing on the 1st October, 1955 and ending on the 30th September, 1956

**Notifications under the Tea Districts Emigrant Labour Act, 1932**

S. R. O. 45, dated the 24th December, 1954.—In exercise of the powers conferred by section 21 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932) and in supersession of previous notifications on the subject, the Central Government hereby extends to the whole of the State of Orissa, the Tea Districts Emigrant Labour (Bihar and Orissa) Rules, published with the Government of Bihar and Orissa, Revenue Department Notification No. 241-VII/E-Com.R., dated the 23rd August, 1953.

S. R. O. 46, dated the 24th December, 1954.—In exercise of the powers conferred by sub-section (4) of section 36 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932), and in supersession of previous notifications on the subject, the Central Government hereby invests the Civil Surgeons mentioned in the Schedule with the powers of the Controller under sub-section (1) of section 33 and sub-section (1) of section 35 of the said Act to be exercised in the areas within their respective jurisdiction.

**Schedule**

1. Civil Surgeon, Balasore.
2. Civil Surgeon, Balangir.
3. Civil Surgeon, Sambalpur.
5. Civil Surgeon, Puri.
5. Civil Surgeon, Ganjam, Berhampur.
6. Civil Surgeon, Cuttack.
7. Civil Surgeon, Keonjhar, Keonjharagarh.
8. Civil Surgeon, Kalahandi, Bhawanipatna.
9. Civil Surgeon, Mayurbhanj, Baripada.
10. Civil Surgeon, Sundargarh.
11. Civil Surgeon, Dhenkanal.
12. Civil Surgeon, Khondmal, Phulbani.
13. Civil Surgeon, Koraput.

S. R. O. 522, dated the 1st March, 1955.—<sup>2</sup>In exercise of the powers conferred by sub-section (1) of section 17 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932), and in supersession of previous notifications on the subject, the Central Government hereby empowers the District Magistrates of the districts mentioned in the Schedule to grant licence to any person to act as a local forwarding agent in the areas in their respective jurisdiction on behalf of an employer or employers of labourers.

<sup>1</sup> Published under Ministry of Labour Notification No. S. R. O. 2047, dated the 9th September, 1955 in the Gazette of India, Part II, Section 3 dated the 17th September, 1955, p. 1894.

<sup>2</sup> Published in the Gazette of India, Part II, Section 3 dated the 5th March, 1955, p. 489.

## Schedule

1. District Magistrate, Cuttack.
2. District Magistrate, Puri.
3. District Magistrate, Balasore.
4. District Magistrate, Sambalpur.
5. District Magistrate, Ganjam.
6. District Magistrate, Boudh.
7. District Magistrate, Koraput.
8. District Magistrate, Mayurbhanj.
9. District Magistrate, Dhenkanal.
10. District Magistrate, Sundergarh.
11. District Magistrate, Keonjhar.
12. District Magistrate, Bolangir.
13. District Magistrate, Kalahandi.

S. R. O. 523, dated the 1st March, 1955.—<sup>2</sup>In exercise of the powers conferred by sub-section (3) of section 36 of the Tea Districts Emigrant Labour Act, 1932 (XXII of 1932), and in supersession of previous notifications on the subject, the Central Government hereby invests the District Magistrates and Sub-Divisional Magistrates in the State of Orissa mentioned in the schedule with the powers of the Controller under sub-clauses (iv) and (v) of clause (a) and clauses (b), (c) and (d) of section 4 and under sections 33, 34 and 35 of the said Act to be exercised in the areas within their respective jurisdiction.

## Schedule

- |    |                              |   |
|----|------------------------------|---|
| 1. | District Magistrate, Cuttack | (1) Sub-Divisional Magistrate, Cuttack Sadar<br>(2) Sub-Divisional Magistrate, Kendrapara<br>(3) Sub-Divisional Magistrate, Jaipur<br>(4) Sub-Divisional Magistrate, Athgarh<br>and <i>ex-officio</i> Sub-Divisional Magistrate, Narsingpur, Baramba and Tigiria. |
| 2. | Do. Puri                     | (1) Sub-Divisional Magistrate, Puri Sadar<br>(2) Sub-Divisional Magistrate, Puri Khurda<br>(3) Sub-Divisional Magistrate, Nayagarh Sadar and <i>ex-officio</i> Sub-Divisional Magistrate, Khandpara, Dasapalla and Ranpur   |
| 3. | Do. Balasore                 | (1) Sub-Divisional Magistrate, Balasore Sadar<br>(2) Sub-Divisional Magistrate, Bhadrak<br>(3) Sub-Divisional Magistrate, Nilgiri   |
| 4. | Do. Sambalpur                | (1) Sub-Divisional Magistrate, Sambalpur Sadar<br>(2) Sub-Divisional Magistrate, Baragam<br>(3) Sub-Divisional Magistrate, Rairakhol<br>(4) Sub-Divisional Magistrate, Bamra<br>(5) Sub-Divisional Magistrate, Kuchinda   |
| 5. | Do. Ganjam                   | (1) Sub-Divisional Magistrate, Chatrapur<br>(2) Sub-Divisional Magistrate, Berhampur<br>(3) Sub-Divisional Magistrate, Ghumsur  |
| 6. | Do. Boudh                    | (1) Sub-Divisional Magistrate, Boudh Sadar<br>(2) Sub-Divisional Magistrate, Khondmals Sadar  |
| 7. | Do. Koraput                  | (1) Sub-Divisional Magistrate, Koraput Sadar<br>(2) Sub-Divisional Magistrate, Nawarangpur<br>(3) Sub-Divisional Magistrate, Rayaghadia   |
| 8. | Do. Mayurbhanj               | (1) Sub-Divisional Magistrate, Baripada<br>(2) Sub-Divisional Magistrate, Bamanghaty<br>(3) Sub-Divisional Magistrate, Panchpirh<br>(4) Sub-Divisional Magistrate, Kalotipada   |

9.	Do.	Dhenkanal.	(1) Sub-Divisional Magistrate, Dhenkanal (2) Sub-Divisional Magistrate, Kamachanagar (3) Sub-Divisional Magistrate, Pallahara (4) Sub-Divisional Magistrate, Athmallik (5) Sub-Divisional Magistrate, Talcher (6) Sub-Divisional Magistrate, Hindol (7) Sub-Divisional Magistrate, Angul
10.	Do.	Sundergarh	(1) Sub-Divisional Magistrate, Sundergarh Sadar (2) Sub-Divisional Magistrate, Panposh (3) Sub-Divisional Magistrate, Bonai
11.	Do.	Keonjhar	(1) Sub-Divisional Magistrate, Keonjhar Sadar (2) Sub-Divisional Magistrate, Anandpur (3) Sub-Divisional Magistrate, Champua (4) Sub-Divisional Magistrate, Bhuyanpirha
12.	Do	Bolangir	(1) Sub-Divisional Magistrate, Bolangir Patna (2) Sub-Divisional Magistrate, Patnagarh (3) Sub-Divisional Magistrate, Titlagarh (4) Sub-Divisional Magistrate, Sonepur Sadar
13.	Do	Kalahandi	(1) Sub-Divisional Magistrate, Bhowanipatna (2) Sub-Divisional Magistrate, Dharmagarh (3) Sub-Divisional Magistrate, Nowapara

## PLANTATIONS LABOUR ACT, 1951 (LXIX OF 1951)

### Statement of Objects and Reasons<sup>1</sup>

In spite of the fact that the plantation industry provides employment for more than a million workers, there is at present no comprehensive legislation regulating the conditions of labour in the industry. The Tea Districts Emigrant Labour Act, 1932, which applies only to Assam, regulates merely the conditions of recruitment of labour for employment in the tea gardens of Assam. The Workmen's Compensation Act, 1923, which applies to estates growing cinchona, coffee, rubber or tea also does not confer any substantial benefit on plantation labour as accidents in plantations are few. The other Labour Acts like the Payment of Wages Act, 1936, the Industrial Employment Standing Orders Act, 1946, and the Industrial Disputes Act, 1947, benefit plantation labour only to a very limited extent. In its report the Labour Investigation Committee observed "that as the conditions of life and employment on plantations were different from those in other industries, it would be very difficult to fit plantation labour in the general framework of the Industrial Labour Legislation without creating serious anomalies" and recommended a Plantation Labour Code covering all plantation areas.

2. The present Bill, drafted as an All-India measure, seeks to regulate the conditions of plantation labour generally. It applies in the first instance to tea, coffee, rubber and cinchona plantations, but the State Government may apply it to any other plantation. Provision is made in the Bill for assuring to the worker reasonable amenities, as for example, the supply of wholesome drinking water or suitable medical and educational facilities or provision for canteens and creches in suitable cases or provision for a sufficient number of latrines and urinals separately for males and females. Housing accommodation is also to be provided for every worker and standards and specifications of such housing accommodation will be prescribed after due consultation. The Bill also regulates the working hours of workers employed in the plantations.

3. Children under 12 are prohibited from employment in any plantation and State Governments are empowered to make rules regulating the payment of sickness or maternity benefits.

4. Necessary provision is made in the Bill for the appointment of a suitable inspecting, medical or other staff for the purpose of securing the implementation of the various provisions in the Bill.

<sup>1</sup> Gazette of India, 1951, Part II Section 2, page 517.

# **PLANTATIONS LABOUR ACT, 1951 (LXIX OF 1951)**

## **Arrangement of Sections**

### **CHAPTER I.—PRELIMINARY**

1. Short title, extent, commencement and application.
2. Definitions.
3. Reference to time of day.

### **CHAPTER II.—INSPECTING STAFF**

4. Chief Inspector and Inspectors.
5. Powers and functions of inspectors.
6. Facilities to be afforded to inspectors.
7. Certifying Surgeons.

### **CHAPTER III.—PROVISIONS AS TO HEALTH**

8. Drinking water.
9. Conservancy.
10. Medical facilities.

### **CHAPTER IV.—WELFARE**

11. Canteens.
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13. Recreational facilities.
14. Educational facilities.
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## PLANTATIONS LABOUR ACT, 1951 (LXIX OF 1951)<sup>1</sup>

*An Act to provide for the welfare of labour, and to regulate the conditions of work, in plantations.*

[2nd November, 1951]

Be it enacted by Parliament as follows:—

### CHAPTER I.—PRELIMINARY

**1. Short title, extent, commencement and application.**—(1) This Act may be called the Plantations Labour Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date<sup>2</sup> as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to all tea, coffee, rubber and cinchona plantations, but any State Government may, subject to the previous approval of the Central Government, by notification in the Official Gazette, apply it to any other class of plantations within that State.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “adolescent” means a person who has completed his fifteenth year but has not completed his eighteenth year;

(b) “adult” means a person who has completed his eighteenth year;

(c) “child” means a person who has not completed his fifteenth year;

(d) “day” means a period of twenty-four hours beginning at midnight;

(e) “employer”, when used in relation to a plantation, means the person who has the ultimate control over the affairs of the plantation, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person shall be deemed to be the employer in relation to that plantation;

(f) “plantation” means any land used or intended to be used for growing tea, coffee, rubber, or cinchona which admeasures twenty-five acres or more and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months, and in any State where the provisions of this Act have been applied by notification under sub-section (4) of section 1 to any other class of plantations, means also any land used or intended to be used for growing the plant mentioned in such notification and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “qualified medical practitioner” means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933) and also persons having certificates granted under the different State (Provincial) Medical Council Acts;

(i) “wages” has the meaning assigned to it in clause (h) of section 2 of the Minimum Wages Act, 1948 (XI of 1948);

(j) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be fixed by the State Government in relation to plantations in any area after such consultation as may be prescribed with reference to the plantations concerned in that area;

<sup>1</sup> For Statement of Objects and Reasons, see the Gazette of India, 1951, Part II, Section 2, p. 517; see also page 200 of this book.

<sup>2</sup> 1st April, 1954, *vide* Ministry of Labour Notification No. S. R. O. 880, dated the 6th March, 1954.

(k) "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, but does not include—

- (a) a medical officer at the plantation;
- (b) any person whose monthly wages exceed three hundred rupees; or
- (c) a person employed in a plantation primarily in a managerial capacity notwithstanding that his monthly wages do not exceed rupees three hundred;

(l) "young person" means a person who is either a child or an adolescent.

3. **Reference to time of day.**—In this Act, references to time of day are references to Indian Standard time being five and a half hours ahead of Greenwich Mean time:

Provided that for any area in which the Indian Standard time is not ordinarily observed, the State Government may make rules—

- (a) specifying the area;
- (b) defining the local mean time ordinarily observed therein; and
- (c) permitting such time to be observed in all or any of the plantations situated in that area.

## CHAPTER II.—INSPECTING STAFF

4. **Chief Inspector and Inspectors.**—(1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector of plantations and so many duly qualified persons to be inspectors of plantations subordinate to the chief inspector as it thinks fit.

(2) Subject to such rules as may be made in this behalf by the State Government, the chief inspector may declare the local area or areas within which, or the plantations with respect to which, inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

5. **Powers and functions of inspectors.**—Subject to any rules made by the State Government in this behalf, an inspector may within the local limits for which he is appointed—

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of any plantation;
- (b) with such assistants, if any, as he thinks fit, enter, inspect and examine any plantation or part thereof at any reasonable time for the purpose of carrying out the objects of this Act;
- (c) examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;
- (d) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

6. **Facilities to be afforded to inspectors.**—Every employer shall afford the inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.



**7. Certifying Surgeons.**—(1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such plantation or class of plantations as it may assign to them respectively.

(2) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

- (a) the examination and certification of workers;
- (b) the exercise of such medical supervision as may be prescribed where adolescents and children are, or are to be, employed in any work in any plantation which is likely to cause injury to their health.

### CHAPTER III.—PROVISIONS AS TO HEALTH

**8. Drinking water.**—In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.

**9. Conservancy.**—(1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

**10. Medical facilities.**—(1) In every plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers as may be prescribed by the State Government.

(2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

(3) For the purposes of such recovery the chief inspector may certify the costs to be recovered to the Collector, who may recover the amount as an arrear of land-revenue.

### CHAPTER IV.—WELFARE

**11. Canteens.**—(1) The State Government may make rules requiring that in every plantation wherein one hundred and fifty workers are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the date by which the canteen shall be provided;
- (b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens;
- (c) the food-stuffs which may be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for the canteen and the representation of the workers in the management of the canteen;
- (e) the delegation to the chief inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

**12. Creches.**—(1) In every plantation wherein fifty or more women workers are employed or were employed on any day of the preceding twelve months, there shall be provided and maintained by the employer suitable rooms for the use of children of such women who are below the age of six years.

(2) Such rooms shall—

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition; and
- (d) be under the charge of a woman trained in the care of children and infants.

(3) The State Government may make rules prescribing the location and the standards of such rooms in respect of their construction and accommodation and the equipment and amenities to be provided therein.

**13. Recreational facilities.**—The State Government may make rules requiring every employer to make provision in his plantation for such recreational facilities for the workers and children employed therein as may be prescribed.

**14. Educational facilities.**—Where the children between the ages of six and twelve of workers employed in any plantation exceed twenty-five in number, the State Government may make rules requiring every employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.

**15. Housing facilities.**—It shall be the duty of every employer to provide and maintain for every worker and his family residing in the plantation necessary housing accommodation.

**16. Power to make rules relating to housing.**—The State Government may make rules for the purpose of giving effect to the provisions of section 15 and, in particular providing for—

- (a) the standard and specification of the accommodation to be provided;
- (b) the selection and preparation of sites for the construction of houses and the size of such plot;
- (c) the constitution of advisory boards consisting of representatives of the State Government, the employer and the workers for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified;
- (d) the fixing of rent, if any, for the housing accommodation provided for workers;
- (e) the allotment to workers and their families of housing accommodation and of suitable strips of vacant land adjoining such accommodation for the purpose of maintaining kitchen gardens, the definition of what constitutes the family of a worker for the purposes of section 15, and for the eviction of workers and their families from such accommodation;
- (f) access to the public to those parts of the plantation wherein the workers are housed.

**17. Other facilities.**—The State Government may make rules requiring that in every plantation the employer shall provide the workers with such number and type of umbrellas, blankets, rain coats or other like amenities for the protection of workers from rain or cold as may be prescribed.

**18. Welfare Officers.**—(1) In every plantation wherein three hundred or more workers are ordinarily employed the employer shall employ such number of Welfare Officers as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

## CHAPTER V.—HOURS AND LIMITATION OF EMPLOYMENT

**19. Weekly hours.**—Save as otherwise expressly provided in this Act, no adult worker shall be required or allowed to work on any plantation in excess of fifty-four hours a week and no adolescent or child for more than forty hours a week.

**20. Weekly holidays.**—(1) The State Government may by rules made in this behalf—

(a) provide for a day of rest in every period of seven days which shall be allowed to all workers;

(b) provide for payment for work done on a day of rest at a rate not less than the overtime rate prevailing in the area, and where there is no such rate at such rate as may be fixed by the State Government in this behalf.

(2) Notwithstanding anything contained in clause (a) of sub-section (1) where a worker is willing to work on any day of rest which is not a closed holiday in the plantation, nothing contained in this section shall prevent him from doing so:

Provided that in so doing a worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

*Explanation 1.*—Where on any day a worker has been prevented from working in any plantation by reason of tempest, fire, rain or other natural causes, that day, may, if he so desires, be treated as his day of rest for the relevant period of seven days within the meaning of sub-section (1).

*Explanation 2.*—Nothing contained in this section shall apply to any worker whose total period of employment including any day spent on leave is less than six days.

**21. Daily intervals for rest.**—The period of work on each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest for at least half an hour.

**22. Spread-over.**—The period of work of an adult worker in a plantation shall be so arranged that inclusive of his interval for rest under section [21]<sup>3</sup> it shall not spread over more than twelve hours including the time spent in waiting for work on any day.

**23. Notice of period of work.**—(1) There shall be displayed and correctly maintained in every plantation a notice of periods of work in such form and manner as may be prescribed showing clearly for every day the periods during which the workers may be required to work.

(2) Subject to the other provisions contained in this Act, no worker shall be required or allowed to work in any plantation otherwise than in accordance with the notice of periods of work displayed in the plantation.

(3) An employer may refuse to employ a worker for any day if on that day he turns up for work more than half an hour after the time fixed for the commencement of the day's work.

**24. Prohibition of employment of young children.**—No child who has not completed his twelfth year shall be required or allowed to work in any plantation.

**25. Night work for women and children.**—Except with the permission of the State Government, no woman or child worker shall be employed in any plantation otherwise than between the hours of 6 a.m. and 7 p.m.:

Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any plantation.

<sup>3</sup> The figures "21" was substituted for the figures "19" by the Repealing and Amending Act, 1953 (XLII of 1953).

**26. Non-adult workers to carry tokens.**—No child who has completed his twelfth year and no adolescent shall be required or allowed to work in any plantation unless—

- (a) a certificate of fitness granted with reference to him under section 27 is in the custody of the employer; and
- (b) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

**27. Certificate of fitness.**—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work, examine such person and ascertain his fitness for work either as a child or as an adolescent.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the young person, his parents or guardian.

**28. Power to require medical examination.**—An inspector may, if he thinks necessary so to do, cause any young person employed in a plantation to be examined by a certifying surgeon.

#### CHAPTER VI.—LEAVE WITH WAGES

**29. Application of Chapter.**—(1) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement, or contract of service:

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provided in this Chapter the worker shall be entitled only to such longer leave.

*Explanation.*—For the purpose of this Chapter leave shall not, except as provided in section 30, include weekly holidays or holidays for festivals or other similar occasions.

**30. Annual leave with wages.**—(1) Every worker shall be allowed leave with wages for a number of days calculated at the rate of—

- (a) if an adult, one day for every twenty days of work performed by him, and
- (b) if a young person, one day for every fifteen days of work performed by him:

Provided that a period of leave shall be inclusive of any holiday which may occur during such periods.

(2) If a worker does not in any one period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months.

(3) A worker shall cease to earn any leave under this section when the earned leave due to him amounts to thirty days.

**31. Wages during leave period.**—(1) For the leave allowed to a worker under section 30 he shall be paid at the rate equal to the daily average of his total full-time wages, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

(2) A worker who has been allowed leave for <sup>4</sup>[any period not less than] four days in the case of an adult and five days in the case of a young person under section 30 shall, before his leave begins, be paid his wages for the period of the leave allowed.

**32. Sickness and maternity benefits.**—(1) Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer—

(a) in the case of sickness certified by a qualified medical practitioner, sickness allowance, and

(b) if a woman, in the case of confinement or expected confinement, maternity allowance,

at such rate, for such period and at such intervals as may be prescribed.

(2) The State Government may make rules regulating the payment of sickness or maternity allowance and any such rules may specify the circumstances in which such allowance shall not be payable or shall cease to be payable, and in framing any rules under this section the State Government shall have due regard to the medical facilities that may be provided by the employer in any plantation.

#### CHAPTER VII.—PENALTIES AND PROCEDURE

**33. Obstruction.**—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**34. Use of false certificate of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 27 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**35. Contravention of provisions regarding employment of labour.**—Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**36. Other offences.**—Whoever contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

<sup>4</sup> These words were substituted for the words "any period less than" by the Repealing and Amending Act, 1953 (XLII of 1953.)

**37. Enhanced penalty after previous conviction.**—If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

**38. Exemption of employer from liability in certain cases.**—Where an employer charged with an offence under this Act, alleges that another person is the actual offender, he shall be entitled upon complaint made by him in this behalf to have, on giving to the prosecutor in this behalf three clear days' notice in writing of his intention so to do, that other person brought before the court on the day appointed for the hearing of the case and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that—

- (a) he has used due diligence to enforce the execution of the relevant provisions of this Act; and
- (b) that the other person committed the offence in question without his knowledge, consent or connivance;

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be acquitted:

Provided that—

- (a) the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges to be the actual offender and by the prosecutor, and
- (b) if, in spite of due diligence, the person alleged as the actual offender cannot be brought before the court on the day appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournment does not exceed three months, and if, by the end of the said period, the person alleged as the actual offender cannot still be brought before the court, the court shall proceed to hear the case against the employer.

**39. Cognizance of offences.**—No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the chief inspector and no court inferior to that of a presidency magistrate or a magistrate of the second class shall try any offence punishable under this Act.

**40. Limitation of prosecutions.**—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof has been made or is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

#### CHAPTER VIII.—MISCELLANEOUS

**41. Power to give directions.**—The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**42. Power to exempt.**—The State Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act:

Provided that no such exemption shall be granted except with the previous approval of the Central Government.

**43. General power to make rules.**—(1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act:

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897) shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—

- (a) the qualifications required in respect of the chief inspector and inspector;
- (b) the powers which may be exercised by inspectors and the areas in which and the manner in which such powers may be exercised;
- (c) the medical supervision which may be exercised by certifying surgeons;
- (d) the examination by inspectors or other persons of the supply and distribution of drinking water in plantations;
- (e) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;
- (f) the time within which housing, recreational, educational or other facilities required by this Act to be provided and maintained may be so provided;
- (g) the types of latrines and urinals that should be maintained in plantations;
- (h) the medical, recreational and educational facilities that should be provided in plantations;
- (i) the form and manner in which notices of periods of work shall be displayed and maintained;
- (j) the registers which should be maintained by employers and the returns, whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act; and
- (k) the hours of work for a normal working day for the purpose of wages and overtime.

(3) All rules made under this Act shall, if made by any Government, other than the Central Government, be subject to the previous approval of the Central Government.

**MINING & MINERAL LEGISLATION  
INCLUDING  
MINING LABOUR WELFARE LEGISLATION**





## **MINING & MINERAL LEGISLATION<sup>1</sup>**

### **Early Mining Legislation**

Mining industry was introduced in India early in the nineteenth century, but the Government did not then consider the necessity of regulating employment of labour in mines. The first Act concerning the mines was passed in 1901 (VIII of 1901) on the basis of the Report of the Mining Committee appointed in 1895 and the Act came into force on 22nd March 1901. The main object of the Indian Mines Act, 1901 was to solve the problems of health and safety of the miners. It applied to all excavations which were 20 feet and undertaken in search of minerals. It empowered the Government of India to appoint Chief Inspector of Mines and the Provincial Governments for the appointment of inspecting staff. It authorised the Chief Inspector to prohibit employment of child (a person under 12 years of age) and woman in mines which were dangerous to their health and safety. Infringement of the provisions was punishable with a fine of Rs. 500 or imprisonment not exceeding 3 months or both. The serious defect of the Act was the absence of any statutory limitation to working hours.

### **Indian Mines Act, 1923 (IV of 1923)**

The first attempt to regulate the conditions of employment in mines was made in the Indian Mines Act, 1923 to carry out the recommendation of the Washington Conference. The definition of the term "mine" was extended to include any excavation irrespective of depth for obtaining minerals. It prohibited the employment of children under 13 years below the ground. The Act prescribed a compulsory weekly holiday for all miners. The weekly hours of work were limited to 54 below ground and 60 above ground. It authorised the Central Government to prohibit the employment of women underground. Mining legislation is applicable to the whole of India and its administration is chiefly the concern of the Government of India. For the administration purposes, a large number of rules and regulations have been made relating to the health and safety in mines and prescribing conditions to make the mining operation as safe as possible. The inspection and supervision are carried on by (1) Inspectorate, (2) Mining Boards, (3) Committee, (4) Court of Enquiry. The Manager in charge of mine is required to keep adequate supply of drinking water and to make provision for sanitary arrangements and when notified to keep first aid medical appliances, stores, stretchers, etc., ready at hand. Abstract of the Act, regulations and rules have to be posted at or near every mine. Infringement of major provisions is punishable with a fine of Rs. 500. The chief defect of the Act of 1923 was the absence of the statutory limitation of daily hours of work.

### **Indian Mines (Amendment) Act, 1928 (XIII of 1928)**

The Act which came into force on 1st April 1930, laid down that no mine could work more than 12 hours out of 24 hours with the same set of workers and that there should not be any over lapping of shifts. Every mine should maintain a register of workers and their hours of work.

### **Prohibition of Women's Underground Work, 1929**

The Government of India, promulgated Regulations under section 29 of the Indian Mines Act, 1923, on 7th March 1929 prohibiting underground employment

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<sup>1</sup> Mines Maternity Benefit Act, 1941 & Rules 1943, Coal Mines Provident Fund and Bonus Scheme Act, 1948 and different Coal Mines Bonus Schemes and Coal Mines Provident Fund Schemes under this Act, have not been included here as they are neither mining nor mineral legislation but they form part of Social Security Legislations in India. Accordingly these legislations have been included under Social Security Legislation.

Mining Labour Welfare Legislations have been included under separate heading.

of women in all mines from 1st July 1929. After the adoption of Underground Work (Women) Convention (No. 45) by the International Labour Conference in 1935, the Government of India revised the Regulation of 1929 and prohibited the underground employment of women in mines from 1st July 1937. Due to shortage of labour and fall in coal output the Government of India temporarily lifted the ban in coal mines in August 1943. The ban was reimposed from 1st February 1946.

#### **Indian Mines (Amendment) Act, 1931 (XXI of 1931)**

The Act was again amended in 1931 for some minor purposes for determining the jurisdiction of the Court to try cases concerning mines.

#### **Indian Mines (Amendment) Act, 1935 (V of 1935)**

On the basis of the recommendations of the Royal Commission on Labour and in the light of the Draft Convention of the Fifteenth Session of the International Labour Conference, the Government of India framed a new Bill further to amend the Act. The Bill was passed in 1935 and came into force from 1st October 1935. The amending Act regulated the hours of work above ground to 54 a week and 10 a day with at least one hour's rest for six hours work, and for work underground to 54 in a week and 9 a day. It prohibited the employment in mines of children under 15 years of age and included provisions relating to safety in mines. It prescribed the maintenance of accident register and submission of record of accidents incapacitating person for 24 hours or more to the Chief Inspector of Mines twice a year. It prescribed setting up of Mining Boards by the Provincial Government, consisting of equal numbers of the representatives of mine owners and mine workers.

#### **Indian Mines (Amendment) Act, 1936 (XI of 1936)**

The amendment was made for securing greater safety and providing adequate safeguards against fire in mines. The power of the Inspectorate was temporarily enlarged to include the issue of orders to individual mines to take precautionary measures in case of collapse of any part of a mine. The Government of India was also authorised to make regulations requiring groups of mines to establish rescue stations and to provide for the formation, training and duties of rescue brigade.

#### **Indian Mines (Amendment) Act, 1937 (XXIX of 1937)**

The amendment was undertaken with a view to give effect to the recommendations of the Coal Committee appointed on 19th October 1936 and to bring about certain changes in the light of new experiences. The Act made permanent the powers of the Inspectorate to issue orders to individual mines where danger was apprehended. It permitted the Inspectorate to disclose evidence of danger to adjacent mines to persons likely to be affected. A duty on coal and coke was levied to defray the cost of rescue stations. The establishment of Boards of Health is an important provision of the Act. These Boards adequately look after the health of workers and have powers to compel mine owners to maintain good housing conditions, water supply, sanitation and medical help.

#### **Indian Mines (Amendment) Act, 1940 (XXIV of 1940)**

The Act required the owner of the coal mine to pay the salaries and wages of the manager, the supervisory staff, and persons employed in connection with the raising and lowering of the workers instead of the same being paid by the coal raising contractors. Its main purpose was that the supervisory staff who would take necessary measures for the safety of the mines would be directly responsible to the owner.

**Indian Mines (Amendment) Ordinance, 1945 (XVII of 1945)**

It is an important piece of legislation providing maintenance of creches in mines and amends sections 30 and 31 of the Act. It empowers the Central Government to make rules requiring the maintenance of suitable rooms for use of children in mines where women are ordinarily employed. Under this amendment, the Central Government promulgated Mines Creche Rules in 1946.

**Indian Mines (Amendment) Act, 1946 (II of 1946)**

The amended Act conferred on the Central Government rule-making powers to require the colliery owners to erect in their mines separate bathing places with shower baths and separate locker rooms, for men and women employed in the mine on a scale laid down by the rules and to maintain them at prescribed standard. The object of pit-head bath is to ensure that a miner should go home clean after his days' work. The Advisory Committee of the Coal Mines Welfare Fund have agreed that it is the responsibility of mine owners to provide bathing facilities for men and women working underground. The Government of India has promulgated Coal Mines Pithead Bath Rules in 1946 under this Act.

**Five-year Labour Programme of the Government of India**

The Government of India in consultation with the Provincial and State Governments proposed to bring about an effective improvement in the working conditions and standards of living of workers in mines on the basis of the factual data collected by the Labour Investigation Committee. It is proposed to revise the Mines Act to reduce the hours of work both above and underground so as to bring it in conformity with the reduction of hours in respect of factories and to incorporate the provisions regarding holidays with pay and monetary relief during sickness. The existing Act is inadequate in respect of welfare provisions relating to labour. The Mines Inspectorate mainly look to the adoption of safety measures and not to other provisions relating to health, hours of work, etc. The inspection of mine was inadequate and strict enforcement of the Act was not done due to inadequate staff. Expansion of the Mines Inspectorate is proposed for frequent inspection and strict enforcement of law. Institution of training courses for mines and introduction of more mechanical appliances are also contemplated.

**Revision of the Indian Mines Act, 1923****Standing Labour Committee**

Revision of the Mines Act was discussed in the Ninth Meeting of the Standing Labour Committee held in July 1946. After the passing of the Factories Amendment Act of 1946 reducing the working hours in factories, the Government brought proposal for reduction of hours of work in mines. No tentative decision was arrived at in the meeting.

**Industrial Committee on Coal Mining**

Government's proposal for amendment of the Mines Act was discussed in the First Meeting of the Industrial Committee on Coal Mining held at Dhanbad on the 23rd and 24th January, 1948. Far reaching amendments were proposed to improve the conditions of work of colliery workers and these relate to reduction of working hours and age limit for workers, provision of sanitary conveniences and the rate for overtime work as suggested by the Conciliation Board which reported in May, 1947. Diarchical control of certain kinds of colliery workers under the provisions of the Factories Act and Mines Act has to be abolished. Workshops run for the maintenance of the machinery and plant in mines in safe and efficient working order, which are now subject to the Factories Act, will be brought within the scope of the Mines Act. Power stations utilised for generating power

used wholly in the mines, are also proposed to be brought within the scope of the proposed amendment.

### **Mines Act, 1952 (XXXV of 1952)**

After the passing of the new Factories Act of 1948, which brought about considerable changes in the law regulating the working conditions of the factory workers and containing elaborate provisions for their welfare, the Central Government was thinking of revising the legislation relating to mine workers and to bring it in line with the legislation concerning factory workers. Indian Mines Act of 1923 placed greater emphasis on the safety of mine workers than on the measures relating to their welfare. The Central Government introduced the new Mines Bill in the Parliament on the 8th December, 1949 to revise the legislation concerning mine workers. This Bill is both a repealing and consolidating measure. The Bill was passed on the 15th March, 1952 and the Act came into force on the 18th July, 1952.

### **Main Provisions of Act XXXV of 1952**

#### **Scope**

The Act extends to the whole of India except the State of Jammu and Kashmir and applies to all persons employed exclusively on work relating to mines and also covers power stations which generate power used wholly in connection with work in mines.

#### **Inspection Staff**

The Act provides for the appointment of a Chief Inspector of Mines by the Central Government for the purpose of the administration of the Act. He will be assisted by Inspectors of Mines. The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government. The main changes in the new Act involve the appointment of certified surgeons who are to carry out prescribed duties in connection with the examination of young persons and of persons engaged in dangerous occupations or processes and to exercise medical supervision in cases of occupational diseases.

#### **Mining Boards and Committees**

The Central Government may constitute Mining Boards and Committees which may exercise the power of Inspector for the purpose of deciding or reporting upon any matter referred therein and also the powers of Civil Courts for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects. The expenses of enquiry conducted by a Mining Board or Committee may be realised in whole or part from the owner or agent of the mine concerned.

#### **Mining Operations and Management of Mines**

The Act prescribes that the owner, agent or manager of a mine shall give to the Chief Inspector, the Director, Indian Bureau of Mines and the local District Magistrate, notice in writing in the prescribed form before the commencement of any mining operation so as to reach the persons concerned at least one month before such commencement.

The Manager shall be responsible for the control, management and direction of the mine. The owner, agent or manager shall be responsible that all operations carried on are conducted in accordance with the provisions of the Act, Regulations, Rules, Bye-laws and of any order made thereunder.

### Health and Safety

The Act contains elaborate provisions for safeguarding the health and safety of mine workers. It provides that effective arrangement shall be made to provide and maintain a sufficient supply of cool and wholesome drinking water both above and below ground. Sufficient number of latrines and urinals of prescribed types shall be provided, separately for males and females and maintained in a clean and sanitary condition. Provision has been made for maintenance of first aid boxes or cupboards equipped with the prescribed contents in mines at the rate of one per every 150 workers. Such boxes and cupboards shall be kept in charge of persons trained in first aid treatment, who shall always be available during the working hours of the mine. Provision has also been made for maintenance of ambulances and stretchers of the prescribed type and ambulance room of the prescribed size containing the prescribed equipment in charge of medical and nursing staff, in every mine employing over 500 workers.

The Act authorises the Chief Inspector or any Inspector to issue directions to the employers to carry out remedial measures in case the mine is dangerous to human life and safety or defective and threatening the bodily injury of the workmen working therein.

The Act further provides that if the Chief Inspector or any Inspector feels that there is urgent or immediate danger to the life and safety of the workers in the mine he may, until the danger is removed, prohibit the employment in or about the mine or part thereof of any person where employment is not reasonably necessary for removing the danger. The Act provides for compulsory reporting of all types of fatal accidents and certain types of serious accidents by the owner, agent or manager. The Central Government may appoint Court of Inquiry in cases of fatal accidents and certain types of serious accidents. The Central Government have been empowered to notify any disease connected with the mining operations or occupational disease in mines and the employers shall inform the Chief Inspector of occurrence of such disease in the mines. Medical practitioners attending to workers suspected to be suffering from such occupational diseases shall immediately report such cases to the Chief Inspector. The Central Government may appoint a competent person to enquire into and report on any case of occupational disease. The Central Government may make Regulations, Rules and Bye-laws regulating various matters which affect the safety of the workers, prescribing the duties of owners, agents and managers of mines and also the qualifications of managers and regulating the storage, conveyance and use of explosives, safety of the road and working places, inspection of workings and sealed off fire-areas in mines, ventilation, lighting, use of safety lamp, fencing and other matters connected therewith.

### Welfare

The Act authorises the Central Government to make rules requiring mines (1) wherein women are employed or were employed on any day of the preceding 12 months to maintain creches; (2) to maintain at or near pit-heads of bathing places equipped with shower baths and locker rooms separately for men and women; (3) wherein more than 150 persons are ordinarily employed to provide and maintain suitable shelters with provision for drinking water; (4) wherein more than 250 persons are ordinarily employed to provide and maintain canteen or canteens as specified by the Chief Inspector; (5) wherein 500 or more persons are ordinarily employed to employ Welfare Officers; (6) to establish Central Rescue Stations for groups of specified mines or for all mines in a specified area and to prescribe the position, equipment, control, maintenance and functions of such stations; (7) to provide for levy and collection of excise duty not exceeding six pies per ton on coal and coke produced in and despatched from mines for which Rescue Stations

may be set up, the proceeds of such excise duty to be utilised for the creation of a Central Rescue Station Fund and (8) to provide for the formation, training, composition and duties of rescue brigades and generally for the conduct of rescue work in mines.

### **Hours of Work**

The Indian Mines Act of 1923 fixed the daily working hours of surface workers at 10 and underground workers at 9 and the weekly working hours of all categories of workers at 54. The new Act limits the hours of work of adult workers at 9 per day and 48 per week if employed above ground and 8 per day and 48 per week if employed below ground. The maximum spread over in the case of surface workers has been fixed at 12 hours per day (same as in the old Act) and in the case of underground worker it has been reduced from 9 hours to 8 hours. Longer hours of work have been prescribed for certain categories of underground workers, viz., pump-minders, onsetters or attendants of continuously operated machineries and they have to work 54 hours a week and 9 hours a day including spread over.

The Act provides for rest interval and no person employed in the mine is allowed to work more than 6 days in a week. If the worker is deprived of one or more weekly days of rest as a result of exemption provided in the Act, he shall be allowed an equal number of compensatory days of rest within two months positively.

As regards the overtime, the old Act did not specify the rate of pay for overtime, but the new Act provides that the surface workers will be paid at  $1\frac{1}{2}$  time the ordinary rate of wages and underground workers at double the ordinary rate. The Act lays down that except in the case of emergency involving serious risks in the safety of a mine or persons employed therein no person is allowed to work for more than 10 hours in any day inclusive of overtime and that the total number of hours of overtime must not exceed 50 in any quarter of a year.

### **Employment of Young Persons**

The Act fixes the minimum age of employment in mines at 15. It prohibits the employment of any child (below 15 years) in any part of the mine which is below ground or in any open excavation in which any mining operation is being carried on. The minimum age for employment below ground has been raised from 17 to 18. Adolescent (persons between the age of 15 and 18) cannot be employed below ground unless they are certified to be medically fit to work as an adult by a Certifying Surgeon and they carry a token to that effect while at work and unless they have an interval for rest of at least half an hour after every  $4\frac{1}{2}$  hours of continuous work on any day. They shall not be employed in any mine except between the hours of 6 A.M. and 6 P.M.

### **Women Workers**

The Act lays down that women workers cannot be employed to work in any part of a mine which is below ground and while working above ground they shall not be employed except between the hours of 6 A.M. and 7 P.M. The Central Government has been empowered to relax restrictions regarding employment of women during night, but employment of women between hours of 10 P.M. and 5 A.M. is not permitted.

### **Leave with Wages**

The Act contains a new chapter regarding leave with wages. Previously in the old Act there was no provision for granting leave with wages to the workmen employed in mines. The Act provides that every person employed in a mine shall be entitled to leave with wages after 12 months' continuous service—14 days if he is a monthly paid employee and 7 days if he is a weekly paid employee

or a loader or employed below ground on a piece rate basis. A worker paid on a monthly basis may carry forward his leave to the succeeding 12 months, but the accumulated annual leave must not exceed a total period of 28 days. 12 months continuous service shall be deemed to have been completed in the case of a loader or other person employed below ground on piece rate basis if he has put in at least 190 days of attendance and for other persons the qualifying period of attendance for 265 days during a period of 12 months.

The Act lays down that in calculating wages for leave period, the cash equivalent of advantages accruing to workers through free issue of food grains and any compensation drawn in cash shall be taken into account. Wages for leave period can be drawn in advance if the period of leave is 10 days or more in case of monthly paid employees and 5 days or more in case of others.

### **Exemption**

The Central Government has been authorised to exempt any mine or any class of persons from the operation of all or any of the provisions of the Act. No mine can be exempted from the operation of the provisions of the Act relating to employment of children unless it is granted exemption from the operation of all other provisions of the Act.

### **Obligation of Mine Workers**

Persons employed in mine shall not wilfully interfere with or misuse any appliances, conveyances or any other thing provided in a mine for the purpose of securing the health, safety or welfare of the employees.

### **Penalty**

The old Act imposed penalty in the form of a fine for contravention of its provisions. Under the new Act the penalty may take the form of a fine or imprisonment or both.

### **Proposed Amendment to the Mines Act, 1952**

The Central Government announced in the Lok Sabha that in order to comply with the Minimum Age (Coal Mines) Recommendation, 1953 adopted by the International Labour Conference at its 36th Session held in Geneva in 1953, it proposed to amend the Mines Act, 1952 to raise the minimum age of employment underground in mines from 15 to 16 years.

### **Rules and Regulations under the Mines Act**

Draft of the Mines (Certifying Surgeons) Rules, 1954 has been published under the Mines Act of 1952 and have not yet been finalised. But Rules and Regulations<sup>2</sup> for gold mines in Mysore have been finalised and published in 1953. The Mines Rules 1955 have since been finalised and published in the Gazette of India Part II, Sec. 3 dated the 22nd July, 1955 at page 1172.

All Rules, Regulations<sup>3</sup> and Bye-laws, etc. framed under the Indian Mines Act of 1923, however, continue to remain in force under the Mines Act of 1952 by virtue of Section 24 of the General Clauses Act, 1897 (X of 1897).

### **Safety Measures in Mines**

At present safety measures in mines are regulated by the Indian Coal Mines Regulations, 1926 and Indian Metalliferous Mines Regulations, 1926. The two recent colliery disasters in quick succession have brought some misgivings in public

<sup>2</sup> Mysore Gold Mines Rules, 1953 and Mysore Gold Mines Regulations, 1953.

<sup>3</sup> Indian Coal Mines Regulations, 1926; Indian Metalliferous Mines Regulations, 1926; Indian Oil Mines Regulations, 1933; Coal Mines Rescue Rules, 1939; Mines Pithead Bath Rules, 1946 and Mines Creche Rules, 1946.



mind about the operation of the mines, particularly in respect of safety measures—either these measures are defective or they are not implemented quite scrupulously in all mines. The Government of India have now taken up the question of the revision of the safety regulations under the Mines Act, so as to ensure greater safety to the labourers working in the mines. In revising these regulations, the Government will also take into consideration the suggestions which are likely to be made regarding the safety measures by the Courts of Enquiry appointed by the Government to go into the cases of the recent serious accidents.

New Regulations to ensure safety in mines in supersession of the Coal Mines Regulations 1926 and Metalliferous Mines Regulations, 1926 will be promulgated directing the colliery having a monthly output of 5,000 tons or over to appoint a competent engineer to supervise its machinery and plant. A new category of certificates will be introduced in order that responsible mine officials have the requisite technical knowledge and managers and supervisory staff should possess such certificates. It will be made obligatory on the managers to reside in the vicinity of their respective mines and to supervise the mines personally every day and examine every working place once in three days.

### Court of Enquiry

The Court of Enquiry<sup>4</sup> consisting of Mr. Justice V. R. Sen and two assessors which was appointed by the Central Government to hold an enquiry into the causes of, and circumstances attending the accident which occurred at the Newton Chickli Colliery, Chhindwara on the 10th December, 1954 suggested that the Government of India should appoint a High-level Commission to suggest measures for ensuring safety of the workers in mines. The Commission, which is to be constituted on the basis of U. K. Royal Commission of Safety in Coal Mines appointed in 1935, should “examine the provisions of the Mines Act, Rules, Regulations and By-laws now in force in the context of the prevailing conditions and the progressive developments and make suitable recommendations to ensure safety in Coal mines.”<sup>5</sup>

The Court of Enquiry also suggested a substantial increase in the number of Mine Inspectors and remarked that “increased depth, modernisation of mines and ageing of mines have brought in their train attendant difficulties and unsafe conditions requiring constant and intelligent supervision. In our opinion, coal mines should be inspected 4 times a year.”<sup>6</sup>

The Court of Enquiry further recommended that “Inspectors of Mines should have practical experience of management of a colliery. Before appointment, an Inspector should have worked for 5 years as a colliery manager.”<sup>6</sup> The Court also recommended the appointment of an independent body of qualified surveyors by the Chief Inspector of Mines or by the appropriate State Government in order to survey each mine every year. Besides there should be Central Rescue Stations at suitable sites in different coal fields.

The above recommendations of the Court of Enquiry were very important as the accident was caused by the non-observance of certain precautions embodied in the Regulations and the negligence of the Manager to take proper safety precautions. There was also a considerable laxity of supervision. It is expected that the Central Government should give serious consideration to the recommendations.

<sup>4</sup> Report of the Court of Enquiry was published under the Ministry of Labour Notification No. S. R. O. 1804 dated the 24th August, 1955 in Gazette of India, Part II, Sec. 3, p. 1701. For the Report of the Court of Inquiry about Amlabad Colliery disaster, see Notification No. S. R. O. 3688 dated the 7th December, 1955 at p. 2385 of Gazette of India, Part II, Sec. 3.

<sup>5</sup> *Ibid*, para 132 (35), p. 1736

<sup>6</sup> *Ibid*, para 132 (28 & 30), p. 1735.

**Coal Mines (Conservation and Safety) Act, 1952 (XII of 1952)**

In order to safeguard the miners against the danger involved in the existing methods of mining in the coalfields, the Coal Mines Safety (Stowing) Act was passed in 1939 (Act XIX of 1939) which provided for the creation of a fund to finance stowing measures to promote safety in coal mines. The Act did not make any provision for assisting stowing for conservation of coal. Various Committees which surveyed the coal resources of the country, suggested urgent need of compulsory stowing for conservation of coal resources. An Ordinance called Coal Mines (Conservation and Safety) Ordinance was promulgated by the President on the 8th January, 1952 (Ordinance No. 1 of 1952) repealing the Coal Mines Safety (Stowing) Act, 1939 and embodying its essential provisions in the said Ordinance. The Ordinance was replaced by Coal Mines (Conservation and Safety) Act which was passed on the 4th March, 1952.

The Act is applicable to the whole of India, except the State of Jammu and Kashmir. The Act authorises establishment of a Coal Board for the purpose of maintenance of safety in coal mines or for conservation of coal and matters connected thereunder or incidental thereto. The Board shall exercise such powers and discharge such duties as may be assigned to it. The Act authorises the Central Government to take such measures as they deem proper and necessary for the purpose of maintenance of safety in coal mines or for conservation of coal. The Act authorises imposition of excise duty on all coal raised and despatched and on all coke manufactured and despatched from the collieries in India at a rate not exceeding Re. 1/- per ton as may be fixed by the Government. Apart from the levy of excise duty, the Central Government are empowered to impose on all coke imported or brought into India a duty of customs at the rate of excise duty levied under the Act. The proceeds of the excise duty are to be paid to the Coal Board and credited to the Coal Mines Safety and Conservation Fund constituted under the Act. The Fund is to be utilised for meeting the expenses of the Board, the execution of stowing and other operations and granting of stowing materials and other assistance and also for research work connected with safety in coal mine or conservation and utilisation of coal.

The Central Government is empowered to constitute one or more Advisory Committees to advise the Central Government or the Board in regard to any matter connected with the administration of the Act as may be referred to them. The Act empowers the Chief Inspector and any Inspector appointed under the Mines Act to make enquiries and to inspect the coal mines to ensure that the provisions of the Act or Rules framed thereunder are being complied with.

**Coal Mines Conservation and Safety Rules, 1952**

The Central Government has framed the Rules on the 25th September, 1954 prescribing the procedure and powers of the Coal Board and the powers and duties of the Chairman and Secretary, the constitution of the Committees of Enquiry, Technical Advisory Committee (Mining), Advisory Committee on Stowing and Research Advisory Committee and their functions, levy and collection of excise duty, procedure for the grant of assistance and accounts and audit.

**Mines and Minerals (Regulation & Development) Act, 1948 (LIII of 1948)**

The Mines and Minerals (Regulation and Development Act, 1948 (LIII of 1948) provides for the regulation of mines and oilfields and for the development of minerals and extends to the whole of India except the State of Jammu and Kashmir. The Act received assent of the Governor-General on the 8th September, 1948 and came into force on the 25th October, 1948. Mine has been defined as any excavation for the purpose of searching for or obtaining minerals including

an oil-well. Mining lease includes a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of minerals or for purposes connected therewith and includes an exploring or a prospecting lease. The Act empowers the Central Government to frame rules for the regulation of the terms and conditions of prospecting leases and mining leases, conservation and development of minerals and modification of the terms and conditions of old licenses and lease on payment of compensation. The Act authorises the Central Government to relax the rules in the public interests.

### **Mineral Concession Rules, 1949**

The Mineral Concession Rules framed by the Central Government on the 18th October, 1949 under Section 5 of the Act and enforced with effect from the 25th October, 1949, regulate the grant by the State Government and by private persons, with whomsoever the mineral rights may rest, of prospecting licenses and mining leases for minerals other than petroleum, natural gas and minor minerals which means building stone, boulder, shingle, gravel, lime-shell, kankar and limestone used for lime burning, murrum, brick-earth, fullers' earth, bentonite, ordinary clay, ordinary sand, road metal, reh-matti slate and slate when used for building material.

The mineral policy as indicated in the Rules is intended to encourage the exploitation of mineral deposits. A certificate of approval is an essential prerequisite for grant of any mineral concessions. This certificate may be issued to any person or company or a firm registered or incorporated in India, who or which is in a position to employ an efficient prospecting agency or possesses special knowledge of geology or mining. The certificate is renewable annually on application in the prescribed way and on payment of prescribed fee. A prospecting license or mining lease can only be granted to a person holding a certificate of approval. In the case of a person who is not an Indian citizen, prior approval of the Central Government is required. The period of prospecting license shall not exceed two years. The period of mining lease shall not exceed thirty years in case of coal, iron ore and bauxite and twenty years in case of any other mineral. The license and lease are renewable for a prescribed period at the option of the leasee.

Applications for certificate of approval, prospecting lease and mining lease have to be made to the State Government, and the State Governments have been given power to grant concessions for minerals on the terms and conditions as specified in the Rules. Persons aggrieved by the order of the State Government may within two months of the date of such order apply to the Central Government for reviewing the same. On receipt of such application and after hearing the State Government, the Central Government may cancel the order of the State Government or revise the same and such order shall be final.

The Central Government have issued model forms (1) for the grant of mineral concession (including certificates of approval), (2) of applications for grant of mineral concession (including certificate of approval) and (3) of application for review.

### **Mineral Conservation and Development Rules, 1955**

The Mineral Conservation and Development Rules were framed by the Central Government on the 15th March, 1955 under Section 6 of the Act and they came into force on the 1st April, 1955. Under the Rules, every holder of prospecting license has to give a notice to the Director, Indian Bureau of Mines of the commencement of the prospecting operations within thirty days from the date of such commencement and has to submit annual returns in triplicate to the Director.

## MINES ACT, 1952 (XXXV OF 1952)

### Statement of Objects and Reasons<sup>1</sup>

The existing Indian Mines Act which relates to the regulation and inspection of mines was passed in 1923. Although it has since been amended in certain respects, the general framework has remained unchanged. Experience of the working of the Act has revealed a number of defects and deficiencies which hamper effective administration. Some of these necessitate new forms of control while others require the tightening up of the existing legal provisions. It has, therefore, been considered necessary to thoroughly overhaul the existing Act.

2 The proposed legislation differs from the existing law in certain respects. The more important features are mentioned below:—

(i) At present workshops run by a mine for the maintenance of its machinery and plant in safe and efficient working order are subject to the Factories Act, 1948, which is administered by Provincial Governments. Workers in workshops such as fitters, black-smiths, welders, electricians and others frequently work for a part of the shift underground and while so employed come within the scope of the Mines Act. It is inconvenient that the same personnel should be subject to two different Acts administered by two different authorities. It is now proposed to bring all personnel engaged solely on work relating to mines within the scope of the Mines Act. For similar reasons it is proposed to bring within the scope of the Mines Act power stations which generate power used wholly in connection with the mine concerned.

(ii) Provision has been made in the Bill for the issue of certificates of fitness to adolescents and the appointment of certifying surgeons.

(iii) The provisions in the existing Act regarding conservancy and sanitary conveniences are of a general nature. The Bill provides for more definite arrangements for drinking water, latrines, urinals, etc.

(iv) It has been made obligatory on the part of the owner, agent or manager of a mine to report the contraction of any of certain notified diseases. Provision for the holding of an enquiry regarding the causes of contraction of a reported disease has also been made.

(v) It has also been laid down that first-aid appliances should be made available underground and that they should be kept in charge of qualified personnel.

(vi) A new chapter regarding the grant of compensatory holidays and holidays with pay has been included.

(vii) The existing Act does not specify the rate of payment for overtime work. In the Bill the rates for overtime have been fixed at  $1\frac{1}{2}$  times the ordinary rate of wages in the case of surface workers and twice the ordinary rate for underground workers. The working hours for all workers, both surface and underground, have been reduced to 48 per week and no worker is to be allowed to work for more than 9 hours a day above ground and 8 hours a day below ground. The provisions in the existing Act permit workers on the surface to work for 54 hours a week or 10 hours a day and workers underground for 9 hours a day.

(viii) It is proposed to prohibit after a certain date to be notified by the Central Government the presence of children in any part of a mine where operations connected with, or incidental to, mining processes are being carried on. The intention is that the presence of children at mines should be prohibited as soon as arrangements for the provision of elementary education can be made in collieries.

(ix) The age limit of persons employed underground has been raised from 17 to 18 years.

(x) At present the penalty for violation of the provisions of the Act is only fine. It is proposed to provide that the punishment may be imprisonment or fine or both. This will bring the penalty provisions in line with the penalties prescribed in the Factories Act, 1948.

(xi) The employment of women underground is already prohibited. This prohibition will be continued. The employment of women on the surface between the hours of 7 P.M. and 6 A.M. will also be prohibited, but Provincial Governments will be empowered to relax these limits but not so as to authorise working between the hours of 10 P.M. and 5 A.M.

(xii) Opportunity has also been taken to include in the Bill provisions relating to health, safety and comfort of workers somewhat on the lines of the Factories Act, 1948.

3. It is hoped that when the Bill is passed into law, the provisions regulating labour and safety in mines will largely be on the lines of those contained in the Factories Act, 1948.

<sup>1</sup> Gazette of India, 1949, Part V, p. 436.

# **MINES ACT, 1952 (XXXV OF 1952)**

## **Arrangement of Sections**

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MINES ACT, 1952 (XXXV OF 1952)<sup>1</sup>

*An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.*

[15th March, 1952.]

Be it enacted by Parliament as follows:—

## CHAPTER I—PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Mines Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such<sup>2</sup> date or dates as the Central Government

<sup>1</sup> For Statement of Objects and Reasons, see the Gazette of India, 1949, Part V, p. 436.

<sup>2</sup> 1st July, 1952, vide Ministry of Labour Notification No. S. R. O. 967 dated the 27th May 1952, published in the Gazette of India, 1952, Part II, Section 3, p. 869.

may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States but not later than 31st December, 1953.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

- (a) “adolescent” means a person who has completed his fifteenth year but has not completed his eighteenth year;
- (b) “adult” means a person who has completed his eighteenth year;
- (c) “agent”, when used in relation to a mine, means any person, whether appointed as such or not, who acts as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;
- (d) “Chief Inspector” means the Chief Inspector of Mines appointed under this Act;
- (e) “child” means a person who has not completed his fifteenth year;
- (f) “day” means a period of twenty-four hours beginning at midnight;
- (g) “district magistrate” means, in a presidency-town, the person appointed by the Central Government to perform the duties of a district magistrate under this Act in that town,
- (h) a person is said to be “employed” in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;
- (i) “Inspector” means an Inspector of Mines appointed under this Act, and includes a district magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;
- (j) “mine” means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—
  - (i) every shaft in the course of being sunk;
  - (ii) every level and inclined plane in the course of being driven;
  - (iii) all shafts, levels, planes, machinery, works, tramways and sidings, whether above or below ground, in or adjacent to, and belonging to, the mine;
  - (iv) any workshop situated within the precincts of the mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management;
  - (v) any power station for supplying electricity solely for the purpose of working the mine, or any group of mines; and
  - (vi) unless exempted by the Central Government by notification in the Official Gazette, any premises or part thereof on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;
- (k) “office of the mine” means an office at the surface of the mine concerned;
- (l) “owner”, when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is

merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

- (m) "prescribed" means prescribed by rules, regulations or bye-laws, as the case may be
- (n) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedule to the Indian Medical Council Act, 1933 (XXVII of 1933);
- (o) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;
- (p) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay";
- (q) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days;
- (r) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

**3. References to enactments not in force in Part B States.**—In the application of this Act to any Part B State, unless the context otherwise requires, references to any enactment in force in Part A States but not in force in that Part B State shall be construed as references to the corresponding enactment, if any, in force in that Part B State.

**4. References to time of day.**—In this Act, references to time of day are references to Indian standard time, being five and a half hours ahead of Greenwich mean time:

Provided that, for any area in which Indian standard time is not ordinarily observed, the Central Government may make rules—

- (a) specifying the area;
- (b) defining the local mean time ordinarily observed therein; and
- (c) permitting such time to be observed in all or any of the mines situated in the area.

## CHAPTER II—INSPECTORS AND CERTIFYING SURGEONS

**5. Chief Inspector and Inspectors.**—(1) The Central Government may, by notification in the Official Gazette, appoint such a person as possesses the prescribed qualifications to be Chief Inspector of Mines for all the territories to which this Act extends and such persons as possess the prescribed qualifications to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office, who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The district magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a district magistrate to exercise any of the powers conferred by section 22 or section 61.



(4) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

**6. Functions of Inspectors.**—(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspectors shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

**7. Powers of Inspectors of Mines.**—(1) The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night:

Provided that the power conferred by this clause shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the persons employed in the mine, and take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(2) The Chief Inspector and any Inspector may, if he has reason to believe, as a result of any inspection, examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession of any register or other record appertaining to the mine, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

**8. Powers of special officer to enter, measure, etc.**—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may, for the purpose of surveying, levelling or measuring any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

**9. Facilities to be afforded to Inspectors.**—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

**10. Secrecy of information obtained.**—(1) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 8 in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information (if so required) to—

- (a) any court;
- (b) a Mining Board, Committee, or Court of Inquiry constituted or appointed under section 12, section 13 or section 24 as the case may be;
- (c) an official superior or the owner, agent or manager of the mine concerned;
- (d) a Commissioner for Workmen's Compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923);
- (e) the Director, Indian Bureau of Mines.

(3) If the Chief Inspector, or an Inspector or any other person, referred to in sub-section (1) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

**11. Certifying Surgeons.**—(1) The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(2) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his power under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

- (a) the examination and certification of adolescents under this Act;
- (b) the examination of persons engaged in a mine in such dangerous occupations or processes as may be prescribed;

(c) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where—

- (i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;
- (ii) adolescents are or are to be employed in any work which is likely to cause injury to their health.

### CHAPTER III—MINING BOARDS AND COMMITTEES

**12. Mining Boards.**—(1) The Central Government may constitute for any part of the territories to which this Act extends, or for any group or class of mines, a Mining Board consisting of—

- (a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Central Government to act as chairman;
- (b) the Chief Inspector or an Inspector nominated by the Central Government;
- (c) a person, not being the Chief Inspector or an Inspector, nominated by the Central Government;
- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;
- (e) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions, namely,—
  - (i) if there are one or more registered trade unions having in the aggregate as members not less than one-quarter of the miners, the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed;
  - (ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than one thousand miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Central Government;
  - (iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the the said persons shall be nominated by the Central Government.

*Explanation.*—In this clause 'miner' means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Central Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

**13. Committees.**—(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

- (a) a chairman nominated by the Central Government or by such officer or authority as the Central Government may authorise in this behalf;
- (b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and
- (c) two persons to represent the interests of the persons employed in the mine of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the

Central Government in consultation with such organisations of miners employed in the mine as may be recognised for the purpose by that Government.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Central Government.

(5) On receiving such report the Central Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Central Government may proceed to review such decision and to pass such orders in the matter as it may think fit:

Provided that if an objection is lodged by the Chief Inspector, notice of the same shall be given to the owner, agent or manager of the mine before any orders are passed thereon by the Central Government.

(6) The Central Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration.

**14. Powers of Mining Boards.**—(1) Any Mining Board constituted under section 12 and any Committee constituted under section 13 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 12 and every Committee appointed under section 13 shall have the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

**15. Recovery of expenses.**—The Central Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 12 or by a Committee appointed under section 13 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the magistrate's jurisdiction belonging to such owner or agent:

Provided that the owner or his agent has not paid the amount within six weeks from the date of receiving the notice from the Central Government or the Chief Inspector of Mines.

#### CHAPTER IV—MINING OPERATIONS AND MANAGEMENT OF MINES

**16. Notice to be given of mining operations.**—(1) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give

to the Chief Inspector, the Director, Indian Bureau of Mines and the district magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

**17. Managers.**—Save as may be otherwise prescribed every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

**18. Duties and responsibilities of owners, agents and managers.**—(1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whosoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves—

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

#### CHAPTER V—PROVISIONS AS TO HEALTH AND SAFETY

**19. Drinking water.**—(1) In every mine, both above and below ground, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein a sufficient supply of cool and wholesome drinking water.

(2) All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(3) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (1) and (2) and for the examination by prescribed authorities of the supply and distribution of drinking water.

**20. Conservancy.**—(1) There shall be provided, separately for males and females in every mine, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(2) All latrines and urinals provided under sub-section (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(3) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

**21. Medical appliances.**—(1) In every mine, both above and below ground, there shall be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards shall not be less than one for every one hundred and fifty persons employed in the mine.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1) and all such boxes and cupboards shall be kept in the charge of any person employed in the mine who is trained in such first-aid treatment as may be prescribed and who shall always be available during the working hours of mine.

(3) In every mine wherein more than five hundred persons are employed, there shall be provided and maintained such ambulances and stretchers as may be prescribed and an ambulance room of the prescribed size containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

**22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.**—(1) If in respect of any matter for which no express provision is made in this Act, or in the regulations, rules or bye-laws or in any orders made thereunder it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire, and the provisions of sub-sections (4), (5), (6) and (7), shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(3) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) Where an order has been made under sub-section (3) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt

of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(5) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (3), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (4) shall forthwith report the same to the Central Government.

(6) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (3), or sub-section (4), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing stating the grounds thereof, to the Central Government which shall refer the same to a Committee.

(7) Every requisition made under sub-section (1), or order made under sub-section (3), or sub-section (4) to which objection is made under sub-section (6), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1), pending its decision on the objection.

(8) Nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

**23. Notice to be given of accidents.**—(1) Where there occurs in or about a mine—

- (a) an accident causing loss of life or serious bodily injury, or
- (b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or irruption of water, or
- (c) an accidental breakage of ropes, chains or other gear by which men are lowered or raised, or
- (d) an accidental overwinding of cages, while men are being lowered or raised, or
- (e) a premature collapse of any part of the workings,

the owner, agent or manager of the mine shall give notice of the occurrence to such authority, in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials and shall ensure that the notice is kept on the board for not less than two months from the date of such posting.

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.

(3) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-section (1), which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1).

(4) A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.

**24. Power of Government to appoint Court of Inquiry in cases of accidents.**—  
(1) When any accident occurs in or about a mine causing loss of life or serious

bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men are being lowered or raised, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

**25. Notice of certain diseases.**—(1) Where any person employed in a mine contracts any disease notified by the Central Government in the Official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—

- (a) the name and address of the patient,
- (b) the disease from which the patient is or is believed to be suffering, and
- (c) the name and address of the mine in which the patient is or was last employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

**26. Power to direct investigation of causes of disease.**—(1) The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (1) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The provisions of sub-sections (2) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section.



**27. Publication of reports.**—The Central Government may cause any report submitted by a Committee under section 13 or any report or extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of Inquiry under section 24 to be published at such time and in such manner as it may think fit.

#### CHAPTER VI—HOURS AND LIMITATION OF EMPLOYMENT

**28. Weekly day of rest.**—No person shall be allowed to work in a mine on more than six days in any one week.

**29. Compensatory days of rest.**—(1) Where in pursuance of action under section 38 or as a result of exempting any mine or the persons employed therein from the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(2) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (1) shall be allowed.

**30. Hours of work above ground.**—(1) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day.

(2) The periods of work of any such adult shall be so arranged that, along with his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

Provided that the Chief Inspector may, for reasons to be recorded, increase the period of spread over to fourteen hours in any day.

(3) No person belonging to two or more relays shall be allowed to do work of the same kind above ground at the same moment:

Provided that, for the purposes of this sub-section, persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

**31. Hours of work below ground.**—(1) No adult employed below ground in a mine, except a pump-minder, an onsetter or attendant of continuously operated machinery, shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day.

(2) No adult excepted under sub-section (1) shall be allowed to work for more than fifty-four hours in any week or for more than nine hours in any day.

(3) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than eight hours in the case of adults referred to in sub-section (1), and nine hours in the case of adults referred to in sub-section (2), in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than the hours stipulated in sub-section (1) or sub-section (2), as the case may be.

(4) No adult employed in a mine shall be allowed to be in any part of a mine below ground, except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 48.

**32. Special provision for night relays.**—Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period

of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.

**33. Extra wages for overtime.**—(1) Where a person employed in a mine works therein for more than forty-eight hours "[in any week] whether above or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages if he works below ground, and at one and a half times that rate if he works above ground.

(2) Where any person employed in a mine is paid on piece-rate basis, the Central Government shall, in consultation with the employer concerned and the representatives of the persons employed in the mine, fix for the purposes of this section time rates which shall, as nearly as possible be equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

(3) For the purposes of this section 'ordinary rate of wages' means the basic wages *plus* such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of foodgrains and other articles as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus.

(4) The Central Government may prescribe the registers to be maintained in a mine for the purpose of securing compliance with the provisions of this section.

**34. Prohibition of employment of certain persons.**—No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.

**35. Limitation of periods of overtime work.**—Save in respect of cases falling within clause (a) of section 39, no person employed in a mine shall be allowed to work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty for any one quarter. Provided that—

- (i) subject to the previous approval of the Chief Inspector, the daily maximum hours specified in sections 30 and 31 may be exceeded in order to facilitate a change of shifts;
- (ii) an adult, engaged in work which for technical reasons must be continuous throughout the day, may be employed for fifty-six hours a week.

*Explanation.*—In this section 'quarter' means a period of three consecutive months beginning with the 1st day of January, April, July or October.

**36. Notices regarding hours of work.**—(1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay.

(2) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) The notice referred to in sub-section (1) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

(4) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or

in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(5) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).

**37. Supervising staff.**—Nothing in section 28, section 30, section 31, section 34 or <sup>4</sup>[sub-section (5) of section 36] shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

**38. Exemption from provisions regarding employment.**—(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 and in accordance with the rules under section 39, permit persons to be employed in contravention of section 28, section 30, section 31, section 34 or <sup>4</sup>[sub-section (5) of section 36], on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of coal would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

**39. Power to make exempting rules.**—The Central Government may make rules providing for the exemption, to such extent and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or <sup>5</sup>[sub-section (5) section 36],—

- (a) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;
- (b) of all or any of the persons so employed, in case of an accident, actual or apprehended;
- (c) of all or any of the persons engaged in urgent repairs; and
- (d) of all or any of the persons employed in any work which for technical reasons must be carried on continuously throughout the day.

**40. Employment of adolescents.**—(1) No adolescent shall be allowed to work in any part of a mine which is below ground unless—

- (a) a medical certificate in the prescribed form granted to the adolescent by a certifying surgeon certifying that he is fit for work as an adult is in the custody of the manager of the mine;
- (b) the adolescent carries, while at work, a token giving a reference to such certificate;

<sup>4</sup> Substituted by the Repealing and Amending Act, 1953 (XLII of 1953)

<sup>5</sup> Substituted, *ibid.*

(c) the adolescent has an interval for rest of at least half an hour after every four and a half hours of continuous work on any day.

(2) Notwithstanding anything contained in this Act, no adolescent who has been granted a certificate under sub-section (1) shall be employed in any mine except between the hours of 6 A.M. and 6 P.M.:

Provided that the Central Government may, by notification in the Official Gazette, vary the hours of employment of such adolescent in respect of any mine or class of mines so however that no employment of any such adolescent between the hours of 10 P.M. and 5 A.M. is permitted thereby.

**41. Certificate of fitness.**—(1) A certificate of fitness granted or renewed for the purposes of section 40—

- (a) shall be valid only for a period of twelve months from the date thereof;
- (b) may be subject to specified conditions in regard to employment generally or the nature of the work in which the adolescent may be employed.

(2) A certifying surgeon shall revoke a certificate granted or renewed under section 40, if in his opinion the holder of it is no longer fit for work in the capacity stated therein in a mine.

(3) Where a certifying surgeon refuses to grant or renew a certificate or revokes a certificate, he shall, if so required by the persons concerned, state his reasons in writing for so doing.

(4) Where a certificate under section 40 with reference to any adolescent is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (1), an adolescent shall not be required or allowed to work in any mine except in accordance with those conditions.

(5) The adolescent or his parents shall not be liable to pay any part of the expenses of any medical examination under section 40 in all cases where the application for a medical certificate is accompanied by a document signed by the manager of a mine stating that the adolescent to be examined will be employed in the mine if certified to be fit for work therein or the application is made by the manager of the mine in which the adolescent desires to be employed.

**42. Effect of certificate of fitness granted to adolescents.**—An adolescent, who has been granted a certificate of fitness to work in a mine as an adult under section 40, and who while actually employed in a mine carries a token giving a reference to such certificate, shall be deemed to be an adult for the purposes of this Act.

**43. Power to require medical examination.**—Where an Inspector is of opinion that any person employed in a mine without a certificate of fitness is an adolescent or that an adolescent working in a mine with a certificate of fitness is no longer fit to work in the capacity stated in the certificate, he may serve on the manager of the mine a notice requiring that such person or adolescent, as the case may be, shall be examined by a certifying surgeon and such person or adolescent shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been granted a certificate of fitness, or a fresh certificate of fitness as the case may be, under section 40, or has been certified by the certifying surgeon examining him not to be an adolescent.

**44. Working hours for adolescents not certified to be fit for work as adults.**—(1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

- (a) for more than four and a half hours in any day; or

(b) between the hours of 6 P.M. and 6 A.M.

(2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing to the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent.

**45. Employment of children.**—(1) No child shall be employed in any mine, nor shall any child be allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining operation is being carried on.

(2) After such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no child shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.

**46. Employment of women.**—No woman shall be employed at any time of the day or night in any part of a mine which is below the adjacent ground level, and no woman shall be employed in any mine above ground except between the hours of 6 A.M. and 7 P.M.:

Provided that the Central Government may, by notification in the Official Gazette, vary the hours of employment of women, above ground in respect of any mine or class or description of mine, so however that no employment of any woman between the hours of 10 P.M. and 5 A.M. is permitted thereby.

**47. Disputes as to age.**—(1) If any question arises between the Chief Inspector or Inspector and the manager of any mine as to whether any person is a child or an adolescent the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

**48. Registers of persons employed.**—(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

- (a) the name of the employee, with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;
- (b) the age and sex of the employee;
- (c) the nature of his employment whether above ground, below ground or open cast workings, and the date of commencement thereof;
- (d) the periods of work fixed for him;
- (e) the intervals for rest, if any, and the days of rest to which he is entitled;
- (f) in the case of an adolescent, reference to the certificate of fitness granted under section 40;
- (g) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him;

(h) such other particulars as may be prescribed; and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(4) For every mine, other than a mine which is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine, (a) below ground, (b) in open cast workings and (c) above ground—

(a) the name of the employee;

(b) the nature of his employment;

(c) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him.

(5) The register of persons employed below ground referred to in sub-section (4) shall show at any moment the name of every person who is then present below ground in the mine.

#### CHAPTER VII—LEAVE WITH WAGES

**49. Leave defined.**—For the purposes of this Chapter leave shall not, except as provided in section 51, include weekly days of rest or holidays for festivals or other similar occasions.

**50. Application of Chapter.**—The provisions of this Chapter shall not operate to the prejudice of any rights to which a person employed in a mine may be entitled under any other law for the time being in force or under the terms of any award, agreement or contract of service, and, where any such award, agreement or contract of service provides for a longer leave with wages than is provided in this Chapter, such person shall be entitled to such longer leave only.

**51. Annual leave with wages.**—(1) Every person employed in a mine who has completed a period of twelve months' continuous service therein shall be allowed, during the subsequent period of twelve months, leave with full pay or wages based on the average pay or wages for the twelve months immediately preceding the leave, as provided in section 52, and such leave shall be calculated at the rate of—

(i) if he is an employee paid by the month, fourteen days for such period of twelve months;

(ii) if he is an employee paid by the week, or a loader, or other person employed below ground on a piece-rate basis, seven days for such period of twelve months.

(2) The twelve months' continuous service referred to in sub-section (1) shall be deemed to have been completed,—

(a) in the case of a loader, or other person employed below ground on a piece-rate basis, if he has during the said period of twelve months put in not less than one hundred and ninety attendances at the mine;

(b) in the case of a person employed above ground on a piece-rate basis or in the case of any other person who is paid by the month, week or

day, if he has during the said period of twelve months put in not less than two hundred and sixty-five attendances at the mine.

*Explanation.*—In either of the above cases the period of leave shall be inclusive of the weekly days of rest and any holiday (if granted) which may occur during such period.

(3) If any person employed in a mine who is paid by the month does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be accumulated by any such person shall not exceed twenty-eight days in all.

(4) Any such person may, during any such period of twelve months, apply in writing to the manager of the mine, not less than fifteen full working days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him during that period under sub-sections (1) and (3).

(5) No application for leave made in accordance with the provisions of this section shall ordinarily be refused, unless the authority empowered to grant the leave is of the opinion that owing to the exigencies of the situation the leave should be refused.

(6) If any person entitled to leave under this section is discharged from the mine before he has taken or has been allowed to take the entire leave to which he is entitled, the owner, agent or manager of the mine shall pay to him the pay or wages payable under section 51 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

*Explanation 1.*—For the purposes of this section, a person shall be deemed to have completed a period of continuous service in a mine, notwithstanding any interruption of service during that period brought about by—

- (i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of that period, or
- (ii) a strike, which is not an illegal strike, or
- (iii) a lock-out, or
- (iv) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or
- (v) leave admissible or granted under any other law.

*Explanation 2.*—Authorised leave shall include any casual absence due to any reasonable cause:

Provided that the person concerned, within a week from the commencement of the absence, gives the reasons for such absence in writing to the owner, agent or manager of the mine, and any such period of authorised leave may include periods of unauthorised leave not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but not weekly days of rest allowed under section 28 which occurs at the beginning or end of an interruption brought about by the leave.

*Explanation 3.*—“ Illegal strike ” means a strike which is an illegal strike within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) or of any other law for the time being in force.

**52. Wages during leave period.**—(1) For the leave allowed to a loader, or other person employed below ground on a piece-rate basis, he shall be paid at a

rate equal to the daily average of his earnings for the month of December prior to his leave:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average earnings of all persons similarly employed for the same month, and for the purpose of such computation the cash equivalent of the advantage accruing to such persons through the free issue of food grains and any compensation in cash drawn by them during the said month shall be taken into account.

(2) For the leave allowed to a person employed in a mine who is paid by the month or week he shall be paid at a rate equal to his normal daily wages during the week preceding his leave, and in computing such wages the cash equivalent of the advantage accruing to him through the free issue of food grains and any compensation in cash drawn by him shall also be taken into account.

**53. Payment in advance in certain cases.**—Any person employed in a mine who has been allowed leave for not less than ten days in the case of a person paid by the month, and five days, either in the case of a person paid by the week or in the case of a loader, or other person employed below ground on a piece-rate basis, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

**54. Power of Inspector to act for an employee.**—Any Inspector may institute proceedings on behalf of any person employed in a mine to recover any sum required to be paid by an employer under this Chapter, which has not been paid by the employer.

**55. Power to make rules.**—The Central Government may, by rules, prescribe the maintenance by owners, agents or managers of mines of registers showing such particulars as may be required for the purposes of this Chapter and requiring such registers to be made available for examination by Inspectors.

**56. Power to exempt mines.**—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

#### CHAPTER VIII.—REGULATIONS, RULES AND BYE-LAWS

**57. Power of Central Government to make regulations.**—The Central Government may, by notification in the Official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:—

- (a) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;
- (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the qualifications of managers of mines and of persons acting under them;
- (d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;



- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;
- (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;
- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;
- (j) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such women and for limiting the weight of any single load that may be carried by a woman;
- (k) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;
- (m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction of pillars and the maintenance of sufficient barriers between mine and mine;
- (n) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings under rivers, tanks, water-courses, public roads and buildings and for requiring due precaution to be taken against the onrush of water into, outbreak of fire in or premature collapse of, any workings;
- (o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;
- (p) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling or for other purposes of communication;
- (q) for providing for the safety of persons present on haulage roads and for restricting the use of certain classes of locomotives underground;
- (r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;
- (s) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of or to result

in or to aggravate the collapse of or irruptions of water or ignitions in mines;

- (t) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
- (u) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector;
- (v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (w) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16;
- (x) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890), or of any public work or classes of public works which the Central Government may, by general or special order, specify in this behalf;
- (y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890);
- (z) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public; and
- (zz) any other matter which has to be or may be prescribed.

**58. Power of Central Government to make rules.**—The Central Government may, by notification in the Official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

- (a) for providing for the appointment of Chairman and members of Mining Boards, and for regulating the procedure of such Boards;
- (b) for prescribing the form of the register referred to in sub-section (3) of section 23;
- (c) for providing for the appointment of Courts of Inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such Courts from the manager, owner or agent of the mine concerned;
- (d) for requiring the maintenance in mines wherein any women are employed or were employed on any day of the preceding twelve months of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women em-

ployed in the mine, the number and standards of such rooms, and the nature and extent of the amenities to be provided and the supervision to be exercised therein;

- (e) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;
- (f) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;
- (g) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;
- (h) for prescribing the forms of notices required under section 36, and for requiring such notices to be posted also in specified languages;
- (i) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;
- (j) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;
- (k) for prescribing the form of the certificate of fitness required by section 40, the conditions subject to which and the circumstances in which they may be granted and the circumstances in which they may be revoked;
- (l) for prescribing the form of registers required by section 48;
- (m) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;
- (n) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times, within which they are to be submitted;
- (o) for requiring the provision and maintenance in mines, wherein more than one hundred and fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;
- (p) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;
- (q) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of Welfare

Officers as may be specified and for prescribing the qualifications and the terms and conditions of, and the duties to be performed by, such Welfare Officers;

- (r) for requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;
- (s) for providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management;
- (t) for prescribing the position, equipment, control, maintenance and functions of central rescue stations;
- (u) for providing for the levy and collection of a duty of excise (at a rate not exceeding six pence per ton) on coke and coal produced in and despatched from mines specified under clause (r) in any group or included under clause (r) in any specified area, the utilisation of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds;
- (v) for providing for the formation, training, composition and duties of rescue brigades; and generally for the conduct of rescue work in mines; and
- (w) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

**59. Prior publication of regulations and rules.**—(1) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation is published under this section it shall be referred to every Mining Board which is, in the opinion of the Central Government concerned with the subject dealt with by the regulation, and the regulation shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in that part of the territories to which this Act extends which is affected by the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(5) Regulations and rules shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Act.

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (d) or clause (e) of section 58 are made.

(7) The regulations and rules made under sections 57 and 58 shall be laid before Parliament, as soon as may be, after they are made.

**60. Power to make regulations without previous publication.**—Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 59, regulations under clause (i) and clauses (k) to (s) excluding clause (l) of section 57 may be made without previous publication and without previous reference to Mining Boards, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.

**61. Bye-laws.**—(1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may—

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(b) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

**62. Posting up of Abstracts from Act, regulations, etc.**—There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

#### CHAPTER IX—PENALTIES AND PROCEDURE

**63. Obstruction.**—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

**64. Falsification of records, etc.**—Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**65. Use of false certificates of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 40 a certificate

granted to another person under that section, or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**66. Omission to furnish plans, etc.**—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

**67. Contravention of provisions regarding employment of labour.**—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

**68. Penalty for double employment of young persons.**—If a child or an adolescent is employed in a mine on any day on which he has already been employed in another mine, his parent or guardian or the person who has the custody of such child or adolescent or who obtains any direct benefit from his wages shall be punishable with fine which may extend to fifty rupees, unless it appears to the court that the child or adolescent was so employed without the consent or connivance of such parent, guardian or person.

**69. Failure to appoint manager.**—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

**70. Notice of accidents.**—(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period specified shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**71. Owner, etc., to report to Chief Inspector in certain cases.**—Where the owner, agent or manager of a mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the court report the result thereof to the Chief Inspector.

**72. Obligation of persons employed in a mine.**—No person employed in a mine shall—

- (a) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein;

- (b) wilfully and without reasonable cause do anything likely to endanger himself or others;
- (c) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

**73. Disobedience of orders.**—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

**74. Contravention of law with dangerous results.**—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable,—

- (a) if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both; or
- (b) if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both; or
- (c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(3) Any court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

**75. Prosecution of owner, agent or manager.**—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the district magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

Provided that in respect of an offence committed in the course of the technical direction and management of a mine, the district magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

**76. Determination of owner in certain cases.**—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:



Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

- (a) in the case of a firm, any of its partners,
- (b) in the case of an association, any of its members,
- (c) in the case of a public company, any of its directors, or
- (d) in the case of a private company, any of its shareholders,

who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for the purposes of this Act, such partner, member, director or shareholder, as the case may be, shall, so long as he continues to so reside, be deemed to be the owner of the mine for the purposes of this Act, unless notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or shareholder, as the case may be, is received by the Chief Inspector.

**77. Exemption of owner, agent or manager from liability in certain cases.—**

Where the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have that other person brought before the court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the court—

- (a) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and
- (b) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that—

- (a) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;
- (b) if in spite of due diligence the person alleged as the actual offender can not be brought before the court on the date appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the court, the court shall proceed to hear the case against the owner, agent or manager, as the case may be.

**78. Power of court to make orders.—**(1) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in

respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

**79. Limitation of prosecutions.**—No court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

- (i) within six months of the date on which the offence is alleged to have been committed, or
- (ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or
- (iii) in any case where a Court of Inquiry has been appointed by the Central Government under section 24, within six months after the date of the publication of the report referred to in sub-section (4) of that section,

whichever is later.

**80. Cognizance of offences.**—No court inferior to that of a presidency magistrate or magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

**81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.**—(1) If the court trying any case instituted at the instance of the Chief Inspector or of the district magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee it may stay the criminal proceedings, and report the matter to the Central Government with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Central Government may refer the case to a Mining Board or a Committee, or may direct the court to proceed with the trial.

#### CHAPTER X—MISCELLANEOUS

**82. Decision of question whether a mine is under this Act.**—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

**83. Power to exempt from operation of Act.**—The Central Government may, by notification in the Official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act.

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 45 unless it is also exempted from the operation of all the other provisions of this Act.

**84. Power to alter or rescind orders.**—The Central Government may reverse or modify any order passed under this Act.

**85. Applications of Act to mines belonging to Government.**—This Act shall apply to mines belonging to the Government.

**86. Application of certain provisions of Act LXIII of 1948 to mines.**—The Central Government may, by notification in the Official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (LXIII of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

**87. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**88. Repeal of Act IV of 1923.**—The Indian Mines Act, 1923 (IV of 1923) is hereby repealed.

## MINES RULES, 1955

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FIRST SCHEDULE  
Forms—A to K.

## **MINES RULES, 1955<sup>1</sup>**

In exercise of the powers conferred by Section 58 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby makes the following rules the same having been previously published as required by sub-section (1) of Section 59 of the said Act, namely:—

### **MINES RULES, 1955**

#### **CHAPTER I—PRELIMINARY**

**1. Short title and application.**—(1) These rules may be called the Mines Rules, 1955

(2) Except as otherwise expressly provided, the rules shall apply to every mine of whatever description to which the Act applies.

**2. Definitions.**—In these rules, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Mines Act, 1952 (XXXV of 1952);
- (b) "court of inquiry" means a court of inquiry appointed under section 24 of the Act;
- (c) "form" means a form as given in the First Schedule;
- (d) "section" means a section of the Act;
- (e) "schedule" means a schedule appended to these rules;
- (f) "manager" includes Mine Superintendent who is appointed by the owner or agent of a mine under section 17 of the Act and as such, responsible for the control, management and direction of a mine;
- (g) "certifying surgeon" means a qualified medical practitioner appointed to be a certifying surgeon under section 11;
- (h) "month" means the period from the 1st day of any month to the last day of the same month.
- (i) "calendar year" means a year from the first day of January to the thirty-first day of December;
- (j) "shift" means each of the different periods of the day during which work of the same kind is carried out by one or more relay of persons.

#### **CHAPTER II—MINING BOARD**

**3. Mine owners' representatives.**—The two members referred to in clause (d) of sub-section (1) of section 12 shall be nominated from time to time in the manner specified by the Central Government by notification in the Official Gazette.

**4. Miners' representatives.**—(1) Where in any part of the territories to which the Act extends, or for any group or class of mines, a Mining Board is constituted—

- (a) if there is one registered trade union of miners entitled to nominate one or two members in accordance with sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (1) of Section 12, the Central Government shall call on such trade union to nominate one or two persons as the case may be.
- (b) if there are two or more registered trade unions of miners entitled to nominate one or two members in accordance with the said provisions of the Act, the Central Government shall, for each vacancy, call on such registered trade unions, in rotation in such order or priority as it may deem fit, to nominate a person to fill in the vacancy.

**5. Powers to co-opt members.**—(1) The Board may at any time and for such period as it thinks fit, co-opt as members of the Board any person or persons possessing a Mine Manager's First Class Certificate of Competency or a degree or diploma in mining or special knowledge in mining affairs.

(2) A member co-opted under sub-rule (1) shall exercise all the powers and functions of a member of the Board except that he shall not be entitled to vote on any question coming before the Board.

**6. Term of office.**—A person nominated under clause (c), clause (d) or clause (e) of sub-section (1) of Section 12 shall, unless he resigns his office or dies at an earlier date, hold office for a period of three years from the date of the notification appointing him a member of the Board and shall be eligible for renomination:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor is appointed.

<sup>1</sup> These Rules were published under Ministry of Labour Notification No. S.R.O. 1421 dated 2nd July, 1955.

**7. Resignation.**—(1) A member other than the Chairman may resign his office by writing under his hand addressed to the Chairman.

(2) The Chairman may resign his office by writing under his hand addressed to the Central Government.

(3) The resignation referred to in sub-rule (1) or sub-rule (2) above shall take effect from the date of its acceptance by the Chairman or the Central Government as the case may be.

**8. Absence from India.**—(1) Before a member leaves India—

(a) he shall intimate to the Chairman the date of his departure from and the date of his expected return to India;

(b) if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any member leaves India without taking the action required by sub-rule (1) he shall be deemed to have resigned with effect from the date of his departure from India.

**9. Notification of vacancies.**—(1) The Chairman shall inform the Central Government as soon as a vacancy occurs in the membership of the Board by the resignation or death of a member.

(2) In case such a vacancy occurs by the death of the Chairman information shall be furnished to the Central Government by the Chief Inspector or the Inspector nominated to the Board by the Central Government as the case may be.

**10. Disposal of business.**—(1) All questions which the Board is required to consider shall be considered either at the meetings or by circulation of papers as the Chairman may direct:

Provided that papers need not be circulated to any member who is absent from India at the time.

(2) When a question is referred by circulation of papers any member may request that the question be considered at a meeting of the Board, and thereupon, the Chairman may direct that it be so considered;

Provided that if three or more members make such a request, the Chairman shall direct that it be so considered.

**11. Time and place of meetings.**—The Board shall meet at such places and times as may be appointed by the Chairman.

**12. Notice of meetings.**—(1) The Secretary to the Board shall give at least fourteen days' notice to every member of the Board present in India of the time and place fixed for each meeting and shall send to every such member agenda of business to be disposed of at that meeting not less than seven days before the meeting:

Provided that when an emergent meeting is called, at least two days' clear notice shall be given.

(2) No business which is not on the agenda shall be considered at a meeting without the permission of the Chairman.

**13. Presiding at meetings.**—The Chairman shall preside at every meeting of the Board at which he is present. If the Chairman is absent from any meeting, the members present shall elect one of them to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

**14. Quorum.**—No business shall be transacted at a meeting of the Board unless at least four members are present:

Provided that at any meeting in which less than four members are present, the Chairman may adjourn the meeting to a date not less than fourteen days later and inform the members present and notify other members that he proposes to dispose of the business at the adjourned meeting irrespective of the quorum, and it shall, thereupon, be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending.

**15. Decision by majority.**—(1) Every question referred to the Board by circulation of papers shall, unless the Chairman, in pursuance of sub-rule (2) of rule 10 reserves it for consideration at a meeting, be decided in accordance with the opinions of the majority sending their opinions within the time allowed.

(2) All questions referred to a meeting of the Board shall be decided by a majority of votes of the members present and voting on that question.

(3) In the case of an equal division of votes, or opinions, the Chairman shall exercise an additional vote or opinion.

(4) Any member disagreeing with a decision of the Board may enter a note of dissent which shall form part of the record of the proceedings.

**16. Minutes of the meetings.**—(1) The Secretary of the Board shall circulate the proceedings of each meeting to all members of the Board, present in India, and thereafter record the proceedings in a minute book which shall be kept for permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman.

**17. Allowances to non-official members.**—Travelling and daily allowance to non-official members of the Board shall be regulated in accordance with the orders regarding allowances to non-official members of Committees, Commissions and Boards of Enquiry issued by the Central Government from time to time.

**18. Correspondence and Accounts.**—The Secretary of the Board shall conduct all the correspondence of the Board and keep its accounts

**19. Appearance at hearings.**—Any appearance required to be made by a party before the Board, except for purposes of being examined as a witness, may be made either in person or by his agent duly authorised in writing, or by a legal practitioner on his behalf.

**20. Proceedings to be in camera.**—Unless the Chairman otherwise directs, the proceeding of the Board shall be conducted in camera and shall be regarded as confidential in nature.

#### CHAPTER III—COURT OF INQUIRY

**21. Court of Inquiry to be public.**—The person appointed to hold inquiry under section 24 of the Act shall hold the inquiry in public in such manner and under such conditions as the Court thinks most effectual for ascertaining the causes and circumstances of the accident or other occurrences and for enabling the Court to make the report.

**22. Recovery of expenses.**—(1) If a Court of Inquiry finds that the accident was due to any carelessness or negligence on the part of the management the Court may direct the owner of the mine to pay all or any part of the expenses of the inquiry in such manner and within such time as the Court may specify.

(2) The amount directed to be paid under sub-rule (1) may on application by the Chief Inspector or Inspector to a Magistrate having jurisdiction at the place where the mine is situated, or where such owner is for the time being resident, be recovered by attachment and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to such owner.

#### CHAPTER IV—CERTIFYING SURGEONS

**23. Powers of Certifying Surgeon.**—A Certifying Surgeon may within the local limits of his jurisdiction or in respect of mines or class or description of mines assigned to him make such inspection, examination or inquiry as he thinks fit for the purpose of the Act and it shall be the duty of the owner, agent or manager of the mines concerned to afford the Certifying Surgeon all reasonable facilities for carrying out such inspection, examination or inquiry as the case may be

**24. Duties of Certifying Surgeons.**—(1) For the purposes of examination and certification of young persons who desire to obtain a certificate of fitness, the Certifying Surgeon shall arrange a suitable time and place for the attendance of such persons, and shall give previous notice in writing of such arrangements to the managers of mines concerned within the local limits of his jurisdiction or mines or class or description of mines assigned to him.

(2) The Certifying Surgeon shall, upon a request being made to him by the Chief Inspector or Inspector, carry out such examination and furnish him with such report as he may indicate in respect of any mine or class or description of mines in which operations involve any risk of injury to the health of any person or class of persons employed therein.

(3) Every certificate of fitness granted by the Certifying Surgeon shall be prepared by filling up the foil and the counterfoil of the certificate, on both of which shall be impressed the left thumb mark of the adolescent in whose name the certificate is granted.

(4) The Certifying Surgeon shall, when satisfied as to the correctness of the entries made therein sign the foil and initial the counterfoil of the certificate and shall deliver the foil to the applicant unless the adolescent has been examined in pursuance of the provision of sub-section (5) of section 41, in which case the Certifying Surgeon shall deliver the foil to the manager of the mine in which the adolescent desires to be employed.

(5) A Certifying Surgeon revoking a certificate under sub-section (2) of section 41 shall write the word "Revoked" in red ink on the foil and the counterfoil of the certificate.

**25. Certificate of fitness.**—A certificate of fitness granted or renewed in Form K shall be deemed to be a certificate duly granted or renewed, as the case may be, in the manner provided for the purposes of sections 40, 43 and 47.

**26. Duplicate certificate.**—(1) If the Certifying Surgeon is satisfied that a certificate of fitness granted under these rules has been lost or otherwise mislaid, he may on appli-

cation, after such verification, as he deems fit, grant a duplicate certificate to the applicant. The word "Duplicate" shall be clearly written in red ink across any such duplicate certificate and initialled by him. The counterfoil of the certificate shall be simultaneously marked "Duplicate" and initialled.

(2) For every duplicate certificate granted under sub-rule (1), a fee not exceeding one rupee shall be payable by the applicant. The Certifying Surgeon shall maintain a register of all duplicate certificates so issued and shall initial each entry thereon.

(3) No duplicate certificate shall be granted to any adolescent otherwise than in accordance with the provision of this rule.

**27. Re-examination.**—(1) Every adolescent in respect of whom a certificate of fitness has been issued, so long as he remains employed in a mine, shall be re-examined by the Certifying Surgeon within twelve months of the date of the examination immediately preceding.

(2) The Certifying Surgeon shall upon making such re-examination, make necessary entries in the said certificate both on the foil and counterfoil and deliver the foil to the manager of the mine.

**28. Fresh examination.**—(1) If any person sent up for medical examination in pursuance of section 40 or section 43 or section 47 is not certified to be fit by the Certifying Surgeon he shall not without the permission in writing of an Inspector, be sent for another medical examination unless a period of six months has elapsed from the time when he was last sent up for medical examination.

(2) Any certificate obtained in contravention of sub-rule (1) shall be void.

**29. Metal Tokens.**—(1) The Certifying Surgeon shall issue to every adolescent to whom a certificate of fitness is granted, a metal token stamped with the letter 'P' and bearing the same serial number as the certificate.

(2) The person to whom such token is issued shall so long as the corresponding certificate remains in force, retain such token in his immediate possession and shall not transfer it or dispose of it. In the event of the corresponding certificate being revoked, the token shall be returned to the Certifying Surgeon.

(3) A duplicate token may be obtained for the reasons, in the manner and subject to the condition specified in rule 26.

(4) A record of every token so issued and the person to whom it is issued shall be maintained by the Certifying Surgeon.

#### CHAPTER V—HEALTH AND SANITATION PROVISIONS

**30. Quantity of drinking water.**—(1) The quantity of drinking water to be provided in a mine or any part thereof shall be on a scale of at least half-a-gallon for every person employed at any one time and such drinking water shall be readily available at conveniently accessible points during the whole of the working shift.

(2) Where 100 persons or more are employed, either above ground or in opencast working, at any one time an Inspector may by order in writing require the drinking water to be collectively cooled by mechanical or other means available.

(3) No charge shall be made for the drinking water so supplied.

**31. Storage of drinking water.**—(1) If drinking water is not provided from taps connected with a water supply system, it shall be kept cool in suitable vessels sheltered from the weather and shall be emptied, cleaned and refilled every day. All practical steps shall be taken to preserve the water and the containing vessels in a clean and hygienic condition.

(2) If the source of drinking water is not from a public water supply system, an Inspector may by order in writing require the owner, agent or manager of the mine to submit with the least possible delay a certificate from a competent health authority or analyst as to the fitness of the water for human consumption.

**32. Decision of Chief Inspector final.**—If any question arises as to whether water supply arrangements are satisfactory and in accordance with the requirements of section 19 and rules 30 and 31 the decision of the Chief Inspector shall be final.

**33. Surface latrines and urinals.**—(1) On the surface at every mine adequate latrine and urinal accommodation shall be provided at conveniently accessible places separately for the use of males and females employed in the mine.

(2) The scale of latrine accommodation shall be at least one seat for every 50 males and at least one seat for every 50 females employed at any one time:

Provided that where sanitary latrines are maintained in bathing places, the number of latrines to be provided under this rule may include such sanitary latrines.

**NOTE.**—In calculating latrine accommodation any fraction less than 50 shall be reckoned as 50.



**34. Standards of construction.**—Every latrine on the surface provided for the use of persons employed in a mine shall conform to the following standards of construction—

- (a) it shall be on a site approved of in writing by an Inspector;
- (b) it shall be built of brick or other suitable building material;
- (c) it shall be adequately drained and properly ventilated and afforded effective protection from the weather;
- (d) it shall be of a type approved of in writing by an Inspector;
- (e) the floors and any interior surface of walls up to a height of four feet shall be cement punned or otherwise so finished as to provide a smooth impervious surface;
- (f) it shall be partitioned off so as to secure privacy and shall have a proper door and fastenings and where a latrine intended for the use of one sex adjoins a latrine intended for the use of other sex, the approaches shall be separate;
- (g) where a latrine is of the service type, the service chamber shall be provided with an efficient trap door and the receptacles for nightsoil shall be of galvanised iron;
- (h) the interior walls, ceilings and partitions shall be white-washed once at least in every four months, and the date of such white washing shall be recorded in a book kept at the mine for the purpose:

Provided that this requirement regarding white washing shall not apply to those parts of walls, ceilings or partitions which are laid in glazed tiles or otherwise finished so as to provide a smooth, polished and impervious surface but all these parts shall be washed with suitable detergents and disinfectants at least once in every seven days.

**35. Sign-boards to be displayed.**—Where persons of both sexes are employed there shall be displayed outside each latrine a sign-board in the language understood by the majority of workpersons 'For Males' or 'For Females' as the case may be. Each sign-board shall also have the figure of a man or a woman as the case may be.

**36. Provision of water for washing, etc.**—(1) Where a piped water supply is available, a sufficient number of water taps, conveniently accessible, shall be provided in or near such latrines.

(2) If piped water supply is not available a sufficient quantity of water shall be kept stored in suitable receptacles near such latrines.

**37. Underground latrines.**—If in any mine more than fifty persons are employed underground at any one time, latrines shall be provided underground on a scale approved by an Inspector at convenient points near the working shafts and at entrances to the districts or sections of the mine. The latrines shall be of a type approved of in writing by an Inspector.

**38. Sanitation.**—(1) At every mine all underground working places and travelling roads shall be kept clean from excreta.

(2) All latrines and urinals in or about a mine shall be kept in a clean and sanitary condition.

(3) Receptacles for night soil shall be cleaned and disinfected at least once in every day.

(4) Proper arrangements shall be made on the surface for the disposal of night soil and urine. Such arrangements shall comply with the requirements of any health authority or Mines Board within whose jurisdiction the mine is situated.

**39. Obligation of workpersons.**—(1) No person shall wantonly misuse or damage the latrines provided either on the surface or underground.

(2) No person shall pollute the underground workings of a mine with excreta. All persons employed underground shall acquaint themselves with the sanitary arrangements provided from time to time in the sections of the mine in which they have to work or pass.

#### CHAPTER VI—FIRST AID AND MEDICAL APPLIANCES

**40.** It shall be the duty of the owner, agent or manager of a mine to see that adequate and suitable arrangements are made—

- (i) for the training of persons in first-aid and the provision of such equipment as is prescribed in these rules;
- (ii) for the speedy removal of serious cases of accidents or sickness from mines in hospitals.

**41. First-aid qualifications.**—No person other than a qualified nurse, dresser, compounder-cum-dresser or medical practitioner shall be appointed to render first-aid under these rules unless he is the holder of a valid first-aid certificate of the standard of St. John's Ambulance Association (India).

**42. First-aid personnel.**—At every mine the first-aid arrangements on the surface, in opencast workings and below ground shall be placed in charge of persons qualified in first-aid and the owner, agent or manager shall appoint such persons on the following scale—

- (i) For every 100 persons or part thereof employed at any one time on the surface, or in opencast workings, if any, at least one qualified person;
- (ii) For every 50 persons or part thereof employed at any one time below ground at least one qualified person.

**43. Ambulance rooms.**—(1) At every mine employing 500 or more persons on any one day of the preceding calendar year, there shall be provided and maintained in good order a suitable ambulance room.

(2) The ambulance room shall be situated at a convenient place on the surface of the mine and shall be used only for first-aid and ambulance work.

(3) The ambulance room shall have a floor space of not less than 100 square feet and shall contain at least the equipment specified in the Second Schedule.

(4) The ambulance room shall be in charge of a qualified medical practitioner assisted by at least one qualified compounder-*cum*-dresser, or a dresser, or a nurse authorised in writing by the manager and such medical practitioner, compounder-*cum*-dresser, dresser or a nurse, or either of them, shall always be readily available during the whole time persons are employed in the mine:

Provided that in any mine where in conformity with any other law for the time being in force an adequately equipped hospital or dispensary, as the case may be, is maintained the foregoing provisions shall be deemed to have been complied with.

(5) Every person who suffers an injury during the course of work shall report for examination or treatment at the ambulance room, hospital or dispensary, as the case may be, before leaving the mine irrespective of first-aid having been rendered at or near the place of work.

**44. First-aid Stations.**—(1) At every mine there shall be provided and maintained first-aid equipment as prescribed in the Third Schedule at one or more conveniently accessible stations above ground and in opencast workings where injured persons may receive first-aid treatment.

(2) First-aid equipment, as specified in the Third Schedule shall also be provided and maintained at suitable stations below ground in the workings of a mine near the working shafts and haulages and at entrances to districts or sections of the mine where injured persons may conveniently receive first-aid treatment.

(3) The number of such stations shall be at least one for every one hundred persons or part thereof employed in the mine at any one time and the person or persons in charge of such stations shall be readily available throughout the shift.

(4) It shall be the duty of the person in charge of a first-aid station to see that the equipment provided under this rule is kept in good order and that it is replenished from time to time.

(5) A list of all persons in charge of first-aid stations shall be kept pasted up in the first-aid room or on a notice board near the entrance to the mine.

**45. Carrying of first-aid outfit by officials.**—Every supervisory official who is in immediate charge of a mine or part and qualified to render first-aid shall carry while on duty a first-aid outfit consisting of one large sterilized dressing, one small sterilized dressing and an ampule of tincture of iodine or other suitable antiseptic. This outfit shall be securely packed to protect it against dirt and water.

#### CHAPTER VII—EMPLOYMENT OF PERSONS

**46. Persons holding positions of supervision or management, etc.**—For the purpose of Section 37, the following shall be deemed to be persons holding positions of supervision or management or employed in a confidential capacity—

- (a) superintendent, manager, undermanager, underground manager, underground agent, and assistant manager;
- (b) mining, electrical and mechanical engineer;
- (c) overman, foreman, assistant foreman, sirdar, shift-boss and head-mestri, or any person holding an equivalent position;
- (d) mechanical and electrical foreman;
- (e) surveyor and assistant surveyor;
- (f) medical officer, chemist, assayer, metallurgist and welfare or personnel officer;
- (g) clerk, accountant and register keeper;
- (h) any other person who in the opinion of the Chief Inspector holds a position of supervision or management.

**47. Weekly day of rest.**—(1) For the purpose of Sections 28 and 29 a day of rest for any person shall mean a period of rest of at least 24 consecutive hours.

(2) There shall be posted up in a conspicuous place outside the office of every mine a notice showing the weekly day of rest. Where the weekly day of rest is not the same day for all persons employed in the mine the notice shall show the day of rest allowed to each relay, or set of persons, or individual.

**48. Notice regarding hours of work.**—(1) The notice of hours of work referred to in sub-section (1) of section 36 shall be maintained in Form A.

(2) In addition to the particulars specified in sub-sections (1) and (3) of section 36 to be shown in the notice, shall also show the particulars of the system in which periodical changes of shifts are made for all or each set of persons employed in the mine.

(3) A copy of the notice shall be affixed on the first page in the registers maintained in Forms B, C, D and E.

**49. Compensatory days of rest.**—(1) The compensatory days of rest to be allowed under sub-section (1) of section 29 shall be so spaced that in any one week not more than two such days shall be allowed to any one person.

(2) On or before the last day of every month, there shall be displayed on a notice board outside the office of the mine a list of all persons who have not been allowed compensatory days of rest during that month, and the dates on which compensatory days of rest will be allowed to them in the following two months.

(3) In the event of a person being discharged or dismissed such number of compensatory days as are due to him, shall not be reckoned as part of any period of notice to which he is entitled under any rule, award, agreement or contract of service, and he shall be allowed all such days of compensatory rest before the date of his discharge or dismissal.

(4) There shall be maintained at every mine a register of compensatory days of rest in Form F.

**50. Exemption from hours and limitation of employment.**—For the purpose of section 39 of the Act, male adults employed in a mine on any work specified in column 1 of the Fourth Schedule shall be exempted from the provisions of the sections of the Act specified in column 2, subject to such conditions as are specified in column 3

**51. Transfer or termination of employment.**—(1) When a person is transferred from one set or relay to another or from one shift to another, particulars of the same shall be entered against his name in the register maintained in Form B.

(2) When the employment of a person in a mine is terminated either due to dismissal, discharge or otherwise, the date of such termination shall be entered against his name in the said register.

**52. Employment of adolescents.**—No adolescent shall be employed in a mine—

- (a) below ground where the dust produced in mining operations is known to constitute a hazard to health; or
- (b) in close proximity to any machinery for crushing, screening or preparing mineral or rock for use or sale, where the concentration of dust in the atmosphere constitutes a hazard to health; or
- (c) in any operation connected with any machinery involving risk of injury from any moving part either of the machine or any adjacent machine; or
- (d) in any work which is unduly arduous; or
- (e) in any apprenticeship or vocational training except under the immediate supervision of competent adult person; or
- (f) alone in a place remote from other workpersons

#### CHAPTER VIII—LEAVE WITH WAGES AND OVERTIME

**53. Register of leave with wages.**—(1) The registers referred to in section 55 shall be maintained in Forms G and H:

Provided that if the Chief Inspector or an Inspector is of opinion that any muster roll or register maintained in accordance with any other rules for the time being in force, gives all the particulars required for the observance of Chapter VII of the Act, he may, by an order in writing, direct that such muster roll or register shall to the corresponding extent, be maintained in place of the registers in Forms G and H.

(2) The registers mentioned in sub-rule (1) shall be preserved for a period of two years after the last entry in them has been made and shall not be destroyed even after the expiry of that period unless it has been certified by an Inspector that the leave account therein has been properly transferred to the new registers.

**54. Leave with wages.**—(1) For the purpose of section 51, a period of twelve months continuous service shall commence with the first day of a calendar year;

Provided that for a person whose period of continuous service commences otherwise than on the first day of a calendar year, leave with wages shall be allowed in proportion hereinafter specified in sub-rule (2) if the ratio of the number of attendances put in by such a person to the number of days from the date of commencement of his service upto the last day of the calendar year is not less than the ratio of the respective attendances specified in sub-section (2) of section 51 to the number of days in that calendar year.

(2) A person entitled to leave with wages under the above proviso shall be allowed leave with wages for the number of days calculated at the rate of—

(a) in the case of an employee paid by the month one day for every 19 attendances put in by him;

(b) in case of any other employee except a loader, or one employed below ground on piece rate basis, one day for every 38 attendances put in by him;

(c) in case of a loader or other person employed below ground on piece rate basis, one day for every 27 attendances put in by him:

Provided that in calculating leave at the rates laid down in clauses (a), (b) and (c) no person shall be entitled to leave with wages for a period longer than those provided for in section 51

(3) In calculating leave under this rule any fraction of leave of half-a-day or more shall be treated as one full day and fraction of less than half-a-day shall be omitted.

**55. Arrears of leave.**—A person who had applied for but had been refused any leave to which he was entitled shall be allowed that leave in the succeeding calendar year.

**56. Payment of leave wages due if a person dies.**—In the event of death of any person entitled to leave with wages all arrears of such leave wages shall accrue to his legal heirs or nominee as the case may be.

**57. Leave with wages register for exempted mines.**—In a mine where an exemption is granted under section 56, there shall be maintained a register showing against the name of each person full details of leave due, leave allowed and wages paid therefor in such manner as may be approved by an Inspector.

**58. Period of continuous service.**—For the purpose of section 51, a period of service shall be deemed to be continuous which has not been interrupted by a period of unauthorised absence from work exceeding 14 days.

**59. Overtime Register.**—The register required by sub-section (4) of section 33 shall be maintained in Form I.

**60. Extra wages for overtime.**—For the purpose of section 33, overtime shall be paid at the end of each wage-period, and a person shall be entitled to receive overtime payment calculated on the basis of his daily wages or earnings.

NOTE 1.—In calculating overtime on any day a fraction of an hour less than 30 minutes shall be ignored and a fraction of 30 minutes or more shall be counted as one hour.

NOTE 2.—In calculating the ordinary rate of wages or earnings in the case of a person paid by the month the daily wages shall be  $1/26$ th of his monthly rate of wages and in the case of any other person it shall be the ordinary rate of his daily wages or earnings as the case may be.

**61. Cases of exemption under section 56.**—(1) Where an exemption is granted under section 56, the Manager shall display at the main entrance of the mine, a notice giving full details of the system established in the mine for leave with wages and shall send a copy of it to the Inspector.

(2) No alteration shall be made in the Scheme approved by the Central Government at the time of granting exemption under section 56 without its previous sanction.

#### CHAPTER IX—WELFARE AMENITIES

**62. Provision of Shelters.**—At every mine employing 150 or more persons on any one day of the previous calendar year, there shall be provided adequate and suitable shelters at or near loading wharves, opencast workings, workshops and mine entrances where 25 or more persons are ordinarily employed at any one time, for taking food and rest:

Provided that any canteen maintain in accordance with these rules may be regarded as part of the requirements of this rule.

**63. Standards of Shelters.**—Every shelter shall—

(a) have a floor area of not less than 150 square feet and a height to the lowest part of the roof of not less than 9 feet;

(b) be so constructed as to afford effective protection from the weather;

(c) be constantly provided with an adequate supply of cool and wholesome drinking water during the working hours of the mine;

(d) be kept in a clean and tidy condition.

**64. Provision of canteens.**—At every mine employing 250 or more persons on any one day in the previous calendar year, where the Chief Inspector or Inspector so requires, there shall be provided within the precincts of the mine a canteen for the use of all persons employed:

Provided that in case of any mine or mines where a canteen is already in existence or where a single canteen is serving two or more adjoining mines, the Chief Inspector or an Inspector may, if he is satisfied that the said canteen is being run efficiently and that it adequately serves the purpose for which it has been established, waive all or any of the requirements specified in these rules.

**65. Standards of canteen.**—Every canteen shall—

- (a) be constructed in accordance with plans and specifications approved by the Chief Inspector or Inspector;
- (b) be situated not less than 50 ft., from any latrine, urinal, boiler house, engine room, coal heap, ash heap or heap of other material and any other source of dust or smoke;
- (c) be sufficiently lighted during all hours when open for use;
- (d) be provided with a washing place for females suitably separated or screened to secure privacy;
- (e) be white washed or colour washed inside the rooms and passages at least once a year and woodwork and structural iron or steel work shall be varnished or painted at least once every three years:

Provided that the inside walls of the kitchen shall be whitewashed or colour washed once every four months:

- (f) be provided with receptacles for garbage and have drains to carry away waste water.

**66. Furniture and equipment.**—In every canteen there shall be provided and maintained—

- (a) sufficient furniture, utensils and other equipment necessary for its efficient operation;
- (b) an adequate supply of cool and wholesome drinking water;
- (c) suitable clean clothes for persons cooking and serving food, drink, etc.

**67. Cleanliness.**—(1) The canteen and its precincts shall be kept in a sanitary condition.

(2) An adequate supply of hot water shall be provided for cleansing utensils and equipment and all furniture, utensils and other equipment shall be kept clean and in a hygienic condition.

**68. Provisions of staff.**—The owner, agent or manager shall appoint supervisory and other staff sufficient for the proper working of the canteen.

**69. Canteen Managing Committee.**—(1) The owner, agent or manager shall appoint a Canteen Managing Committee which shall be consulted from time to time, but not less than once a month, as to the management and working of the Canteen.

(2) (a) The Committee shall consist of an equal number of members nominated by the owner, agent or manager and elected by the persons employed in the mine. The number of elected members shall be on a scale of one for every 1,000 persons employed, provided that the number shall not be more than 5 or less than 2.

(b) The term of office of the elected members shall be two years commencing from the date of the last election, no account being taken of a bye-election.

(c) The owner, agent or manager shall determine the procedure for and supervise the elections to the Committee.

(3) The owner, agent or manager shall appoint either himself or his nominee as *ex-officio* Chairman of the Committee and the Chairman shall preside at every meeting of the Committee.

(4) The proceedings of every meeting of the Committee shall be recorded in a minute book and shall be signed by the Chairman.

**70. Prices to be charged.**—Food, drink and other items served in a canteen shall be sold on a non-profit basis and the prices charged shall be subject to the approval of the Canteen Managing Committee. A list of approved prices shall be conspicuously displayed in the Canteen in English, Hindi and in the language of the district in which the mine is situated.

**71. Accounts.**—Proper accounts pertaining to the canteen shall be maintained. Such accounts shall be audited once every twelve months by a competent accountant or auditor, and a balance-sheet shall be submitted to the Canteen Managing Committee not later than two months after the date of closing of the accounts.

**72. Welfare Officers.**—(1) In every mine wherein 500 or more persons are ordinarily employed there shall be appointed at least one Welfare Officer:

Provided that if the number of persons ordinarily employed exceeds 2,000, there shall be appointed additional Welfare Officers on a scale of one for every 2,000 persons or fraction thereof.

(2) No person shall act as a Welfare Officer of a mine unless he possesses—

- (a) a University degree;
- (b) a degree or diploma in Social Science or Labour Welfare from any institution recognised by the Government and preferably practical experience of handling labour problems in any industrial undertaking for at least three years; and
- (c) a knowledge of the language of the district in which the mine is situated or the language understood by the majority of persons employed in the mine:

Provided that in case of a person already in service as a Welfare Officer in a mine the above qualifications may, with the approval of the Chief Inspector, be relaxed.

(3) Where by reason of temporary absence, illness, or any other similar cause, the Welfare Officer is unable to perform his duties, the owner, agent or manager shall authorise in writing a person whom he considers competent to act in his place:

Provided that no such authorities shall have effect for a period in excess of 30 days except with the previous consent of the Chief Inspector or Inspector.

(4) A written notice of every such appointment, authorisation, discharge or dismissal and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within 7 days from the date of such appointment, authorisation, discharge or dismissal.

**73. Duties of Welfare Officers.**—The duties of Welfare Officers shall be—

- (i) to establish contacts and hold consultations with a view to maintain harmonious relations between the management and persons employed in the mine;
- (ii) to bring to the notice of the management the grievances of employees, individual as well as collective, with a view to securing their expeditious redress;
- (iii) to promote relations between management and employees which will ensure productive efficiency as well as amelioration in the working conditions and to help workers to adjust and adapt themselves to their working environments;
- (iv) to assist in the formation of Works and Joint Production Committees, Co-operative Societies and Safety-First and Welfare Committees, and to supervise their work;
- (v) to help the management in regulating the grant of leave with wages and explain to the workers the provisions relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of applications for grant of leave for regulating authorised absence;
- (vi) to advise on welfare provisions, such as housing facilities, food stuffs, social and recreational facilities, sanitation, individual personnel problems and education of children;
- (vii) to supervise welfare activities, statutory or otherwise, including education and training of employees;
- (viii) to suggest measures which will lend to raise the standard of living of workers and in general promote their well being;
- (ix) to perform any other duty connected with the welfare of the persons employed in mines.

**74. Conditions of service.**—(1) A Welfare Officer shall be given appropriate status corresponding to the status of the other executive heads of the mine.

(2) The conditions of service of a Welfare Officer shall be the same as of other members of the staff of corresponding status in the mine: Provided that, in the case of discharge or dismissal, the Welfare Officer, shall have a right of appeal to the Chief Inspector whose decision thereon shall be final and binding upon the owner, agent or manager of the mine, as the case may be.

#### CHAPTER X—REGISTERS AND NOTICES

**75. Maintenance and production of reports, registers and other records.**—All reports, registers and other records maintained in pursuance of the regulations, rules or bye-laws, unless otherwise provided for, shall—

- (a) be kept at an office or the nearest convenient building within the precincts of the mines;
- (b) be legibly entered in ink in English, Hindi or either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine;

(c) be preserved in original for a period of one calendar year after the date of the last report or entry:

Provided that when the original record is lost or destroyed before the expiry of one year's period true copies thereof, if available, shall be preserved for the prescribed period;

(d) be produced on demand before the Chief Inspector or Inspector or any person authorised in that behalf by the Central Government.

76. **Register of minor accidents.**—The register required by sub-section (3) of section 23 shall be maintained in Form J.

77. **Register of employees.**—The register required by sub-section (1) of section 48 shall be maintained in Form B.

78. **Register of daily attendance.**—(1) The registers required by sub-section 4 of section 48 of persons employed in the mine (a) belowground, (b) in opencast workings and (c) above ground shall be maintained in Forms C, D and E respectively.

(2) The entries in the register maintained in Form C shall be made at the entrance or entrances to the mine, at the time when a person against whose name the entry is made enters or leaves the mine.

(3) The entries in the registers maintained in Forms D and E shall be made at suitable points on the premises of the mine with reasonable despatch, at the commencement and end of the period of work.

79. **Postings of abstracts, bye-laws and notices.**—(1) The abstracts of the Act as given in the Fifth Schedule shall be posted up outside the Office of every mine in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine.

(2) The bye-laws shall be posted up in the manner required by sub-section (5) of Section 61, in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine:

Provided that the Chief Inspector may require the abstracts and the bye-laws to be posted up in any Indian language other than the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine.

(3) Every notice required to be posted up under these rules shall be in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine.

(4) The abstracts, bye-laws and notices required to be posted up by the Act, regulations and the rules shall be maintained in a clear and legible condition.

#### CHAPTER XI—MISCELLANEOUS

80. **Observance of local time.**—For the purpose of section 4, the local mean time that shall ordinarily be observed in any class or group of mines situated in any local area, specified in column 1 of the Sixth Schedule shall be as specified in column 2 thereof.

81. **Intoxicating drugs and drinks.**—(1) No intoxicating drink or drug shall be carried or permitted to be carried belowground into the workings of a mine or part.

(2) No person shall, during the course of his employment in or about a mine, possess, carry or consume any intoxicating drink or drug or remain in a state of intoxication or drunkenness.

82. **Occupational diseases—Fees of medical practitioner.**—A medical practitioner making an examination in accordance with sub-section (2) of section 25, shall be paid as follows—

(a) a fee not exceeding rupees sixteen for each clinical examination;

(b) a fee not exceeding rupees sixteen for each X-ray examination.

83. **Mode of payment of fees, etc.**—The fees or other expenses payable by the owner, agent or manager under these rules shall be paid directly into the treasury or a branch of the Imperial Bank of India and the receipt of the treasury or bank shall be sent to the Chief Inspector along with the particulars to which the fees or other expenses relate.

#### CHAPTER XII—RESCISSION AND SAVINGS

84. **Rescission and Savings.**—(1) All rules framed by State Governments under section 30 of Indian Mines Act, 1923, those contained in chapters II, III and VI of the Mysore Gold Mines Rules, 1953, and those issued *vide* the Government of India notification No. S.R.O. 2403, dated the 12th July, 1954, are hereby rescinded, but all acts done, orders issued and certificates granted or renewed under any rule so rescinded, so far as they are not inconsistent with these rules, be deemed to have been respectively done, issued, granted or renewed under these rules.

(2) The rules contained in Chapters IV and V of the Mysore Gold Mines Rules, 1953, shall continue to apply to gold mines in the State of Mysore in addition to these rules.

FIRST SCHEDULE—FORMS

FORM A—[See Rule 48(1)]

Name of the Mine.....

Owner.....

Notice of Commencement and end of work

It is hereby notified that persons employed at this mine shall begin and end their periods of work between the hours set out below.

Serial No.	Class or kind of Employment.	Sex	Adult or Adolescent	Place of work		Set or Relay Number (A,B,C, etc.)	1. Set or Relay	A	B	C	D	Etc.
				Above Ground	Working Below Ground							
1	2	3	4	5	6		2. Shift	1 2 3	1 2 3	1 2 3	1 2 3	
							Period of work					
							3. Begins*	A.M. —				
								P.M. —				
							Ends*	A.M. —				
								P.M. —				
							*Interval for rest, if any					
							4. Begins*	A.M. —				
								P.M. —				
							Ends*	A.M. —				
								P.M. —				
							5. System of change of shifts.					
							6. Date on which this notice was first exhibited.					

Note.—\*The words and letters not required shall be scored out.

Signature of Manager.

Date



**FORM B—[See Rules 48(3), 51 and 77]**

## Register of employees

Name of Mine—
Name of Owner—

Serial Number	Name and surname of employee	Father's/Husband's Name	Age and Sex	Nature of employment (Above or Below ground or opencast workings)	Class or kind of employment (Set or Relay)	Particulars of Transfer to another set or relay	Serial Number	Home address of employee (Village, Thana, District)	Date of commencement of employment	Date of termination or leaving of employment	Signature or thumb impression of employee	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

**NOTE FOR ADOLESCENTS ONLY**

**NOTE FOR ADOLESCENTS ONLY**  
Serial Number and date of certificate of fitness shall be entered in the remarks column

Month.....

Week Ending		Week Ending		Week Ending		Week Ending		Week Ending		Week Ending		Week Ending		Week Ending	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	Relay	Shift	Date of weekly rest	

**Signature of Register Keeper.**

FORM C—[See Rules 48(3) and 78]

Register of persons employed below ground during the week commencing ..... and ending ..... 19 ..

Name of Mine.....

Part or Section of Mine.....

Name of Owner.....

Hours of Shift Begins

A.M.

P.M.

Ends

A.M.

P.M.

Serial Number	Name and surname of employee	Age & Sex	Class or kind of employment	Relay or Set No.	Serial No. from Form B Register	Time should be recorded against each entry							Total		Remarks								
						—day	—day	—day	—day	—day	—day	—day	No. of days worked	No. of hours worked									
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out				

INITIALS OF REGISTER KEEPER		WEEKLY ABSTRACT			Miners including loaders		Adolescents		Others	
		Total No. of attendances.								
		Total No. of absentees.								

## FORM D—[See Rules 48(3) and 78]

Register of persons employed in opencast working during the week commencing ..... and ending ..... 19 .....

Name of Mine.....

Name of Owner.....

Part or Section of Mine.....

Hours of Shift Begins Ends

A.M. P.M. A.M. P.M.

Serial Number	Name and surname of employee	Age & Sex	Class or kind of employment	Relay Serial No. or Set No. Form B Register	Time should be recorded against each entry							Total		Remarks									
					—day	—day	—day	—day	—day	—day	—day	No. of days worked	No. of hours worked										
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out				
										WEEKLY ABSTRACT						Miners including loaders		Adolescents		Women		Others	
														Total No. of attendances.									
														Total No. of absentees.									

INITIALS OF REGISTER KEEPER

FORM E—[See Rules 48(3) and 78]

Register of persons employed above ground during the week commencing..... and ending..... 19.....

Name of Mine..... Part or Section of Mine.....

Name of Owner.....

Hours of Shift  
Begins..... A.M.  
Ends..... P.M.

Serial Number	Name and surname of employee	Age & Sex	Class or kind of employment	Relay or Set No.	Serial No. from B Register	Time should be recorded against each entry								Total		Remarks								
						—day	—day	—day	—day	—day	—day	—day	—day	No. of days worked	No. of hours worked									
1																								
2		3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23		
						In	Out	In	Out	In	Out	In	Out	In	Out	In	Out	In	Out					

INITIALS OF REGISTER KEEPER		WEEKLY ABSTRACT		Men		Women		Adolescents	
		Total No. of attendances.							
		Total No. of absentees.							

## FORM F—[See Rule 49(4)]

## Register of Compensatory Days of Rest

Name of Mine

Owner

Year

Serial No. from Form B	Name and surname of employee	Class or kind of employment, set or Relay No.	No. of days of compensatory rest due in the previous calendar year	Dates on which weekly days of rest have not been allowed				Dates on which compensatory days of rest have been allowed				No. of days of compensatory rest due on 31st December.	Remarks
				1st January to 31st March	1st April to 30th June	1st July to 30th Sept.	1st October to 31st December	1st January to 31st March	1st April to 30th June	1st July to 30th Sept.	1st October to 31st December		
1	2	3	4	5	6	7	8	9	10	11	12	13	14

**FORM G—(See Rule 53)**  
**Register of Leave Account During the Calendar Year**

Name of Mine .....  
Owner.....

1	2	3	4	Actual Number of days worked during the year												Leave period due in ensuing year		Remarks		
Serial Number from Form B Register	Name and surname of employee	Nature of employment, mention whether above or below ground	Category of employment, mention whether monthly, weekly, daily or piece rated.	January	February	March	April	May	June	July	August	September	October	November	December	Total	Days of leave entitled	Arrears from previous year	Total	
21				5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	

**FORM H—(See Rule 53)**  
**Register of Leave Wages Account during the Calendar Year**

Name of Mine .....  
Owner.....

Serial Number from Form B Register	Name and Surname of employee	Total leave period due in the year (from Form C)	Leave Instalment				Leave Instalment				Leave Instalment				Arrears of Leave		Remarks	21		
			Calculated daily rate of wages or earnings including concessions	Period of leave availed	Calculated leave wages for the period	Leave wages actually paid	Date of payment	Calculated daily rate of wages or earnings including concessions	Period of leave availed	Calculated leave wages for the period	Leave wages actually paid	Date of payment	Period	Amount						
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

**Note—**The date of payment of arrears of leave wages shall be entered in the Remarks column.

FORM I—(See Rule 59)

Register of Overtime Wages

Name of Mine.....

Owner.....

Month.....

Serial Number from Form B Register

1	2	3	4	5	6	Week ending			Week ending			Week ending			Week ending			Week ending			Remarks	22
	Name and Surname of employee	Nature of work above or below ground	Class or kind of employment	Ordinary rate of wages	Overtime rate of wages	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21		
						Number of overtime hours	Overtime earnings	Date of payment	Number of overtime hours	Overtime earnings	Date of payment	Number of overtime hours	Overtime earnings	Date of payment	Number of overtime hours	Overtime earnings	Date of payment	Number of overtime hours	(Overtime earnings	Date of payment		

Note:—The total number of hours of overtime work for the month shall be shown in the Remarks column.

## FORM J—(See Rule 76)

## Register of Minor Accidents

Name of Mine.....

Owner.....

Year.....

Serial Number	Date of entry	Date and hour of accident	Classification of accident	Name and Surname of person injured	Class or kind of employment	Nature of injury	Date of return of the injured person to work	Duration of enforced absence from work	Initial of attending Medical Practitioner	Remarks
1	2	3	4	5	6	7	8	9	10	11

NOTE.—In the event of an injury proving "serious" or "fatal" or when an injured person proceeds on leave or leaves his employment particulars shall be entered in the Remarks column.

## FORM K—(See Rule 25)

## Certificate of Fitness.

Counterfoil of Certificate of Fitness

Foil of Certificate of Fitness.

1. Serial No.....  
Date.....
2. Name and surname .....
3. Father's/Husband's Name.....
4. Sex.....
5. Permanent Home Address Village/  
Thana District.....
6. Age certified or the date of birth, if  
available.....
7. Physical fitness for work as an adult/  
adolescent, above ground/below  
ground.....
8. Descriptive marks.....
9. Certificate valid upto.....
10. Reasons for—  
(1) Refusal of certificate  
(2) Certificate being revoked.....

Signature/(Thumb Impression)

Initial of Certifying Surgeon

Certificate renewed upto the.....  
day of.....19..

Certifying Surgeon.

Certificate renewed upto the.....  
day of.....19..

Certifying Surgeon

Serial No.....

Date.....

I certify that I have personally examined  
(name and surname).....

Son/daughter/wife of.....  
residing at.....  
who is desirous of being employed in a mine,  
and that his/her age, as nearly as can be  
ascertained from my examination is.....  
years and that he/she is fit for work in a  
mine as an adult/adolescent, above-ground/  
below ground.

This certificate is valid up to.....19  
His/Her descriptive marks are .....

Signature/(Thumb Impression)  
Certifying Surgeon.

This certificate is hereby renewed upto  
the.....day of.....19..

Certifying Surgeon.

This certificate is hereby renewed upto  
the.....day of.....19..

Certifying Surgeon.

NOTE.—Exact details of cause of physical  
disability should be clearly stated.



SECOND SCHEDULE—[See Rule 43(3)].

**Equipment of an Ambulance Room.**

- (a) A stretcher and a table of convenient height (about 2½ feet) large enough to stand the stretcher on;
- (b) a bench or chairs and one screen;
- (c) a glazed sink with water readily available;
- (d) soap, towel and nail brush;
- (e) a supply of suitable sterilized dressings, cotton wool, bandages and adhesive plaster;
- (f) a supply of tincture of iodine (2 per cent alcoholic solution) or other antiseptic solution;
- (g) blankets and hot-water bottles;
- (h) sets of splints (4½ ft., 3 ft. and 1 foot), with necessary triangular bandages for applying them;
- (i) a supply of drinking water and a drinking vessel;
- (j) a tourniquet, scissors and safety pins;
- (k) a pair of artery forceps;
- (l) one eyebath;
- (m) two clinical thermometers;
- (n) one record syringe (5 c.c.);
- (o) an adequate supply of anti-tetanus serum and morphine ampules;
- (p) first-aid boxes or cupboards not less than one for every 150 persons employed in the mine stocked with requisites specified in the Third Schedule; and
- (q) stove or other apparatus for boiling water.

THIRD SCHEDULE—[See Rule—44(1)].

**Requisites of a First-Aid Station.**

- (a) A stretcher with two blankets;
- (b) sets of splints (4½ ft., 3 ft., 1 ft.) with necessary triangular bandages for applying them;
- (c) first-aid boxes or cup-boards not less than one for every 150 persons employed containing at least—
  - (i) a sufficient supply of large and small sterilized dressings and burn dressings;
  - (ii) a sufficient supply of sterilized cotton-wool and of adhesive plaster;
  - (iii) a supply of roller bandages;
  - (iv) a supply of tincture of iodine or other antiseptic solution;
  - (v) a tourniquet, scissors and safety pins; and
  - (vi) a piece of carbolic soap.

NOTE.—Each first-aid box or cup-board shall be distinctly marked with the sign of Red Cross and with the words "FIRST-AID" and nothing except appliances or requisites for first-aid shall be kept in it.

FOURTH SCHEDULE—(See Rule 50).

**Exemptions from hours and limitations of employment**

Nature of work	Extent of exemption	Conditions attached to exemption
1. Emergency involving serious risk to the safety of the mine or of persons employed therein such as accidental explosion, ignition of gas, spontaneous heating, outbreak of fire, influx of noxious gases, irruption of water, premature collapse of any part of a mine or failure of power supply.	Sections 28, 30, 31, 34 and 36(5).	<ul style="list-style-type: none"> <li>(1) No person shall be employed on such work for more than 12 hours on any one day and 66 hours during each period of seven consecutive days commencing from his first employment on such work.</li> <li>(2) The report referred to in sub-section (2) of section 38 shall be sent to the Chief Inspector on, or before the last day of each month.</li> </ul>

Nature of work	Extent of exemption	Conditions attached to exemption
<p>2. Urgent work in case of—</p> <p>(i) an accident actual or apprehended in a mine involving work such as, clearing of falls of ground or erecting or withdrawing of supports or completion of blasting operations; or</p> <p>(ii) a breakdown of any machinery, plant or equipment in a mine involving repairs, renewals or alterations necessary to avoid stoppage of normal mining operations.</p>	<p>Sections 28, 30, 31, 34 and 36(5).</p>	<p>(1) No person shall be employed beyond the limits of overtime specified in Section 35.</p> <p>(2) The report referred to in sub-section (2) of section 38 shall be sent to the Chief Inspector on or before the last day of each month.</p>

#### FIFTH SCHEDULE—[See Rule 79(1)].

### Abstracts of the Act

#### INSPECTORS

1. Any Inspector may enter and inspect any mine (by day and night) and make such examination and enquiry as may be necessary, to determine the condition of the mine and to ascertain whether the provisions of this Act and of the Regulations, Rules and Bye-laws are being observed. If he has reason to believe that these provisions have been or are being contravened, he may search any place and take possession of any register or record concerning the mine. (Section 7).

2. Any Government servant, duly authorised by the Chief Inspector or an Inspector, may enter any mine for the purpose of surveying, levelling and measuring after giving at least 3 days' notice to the manager. (Section 8).

3. Every owner, agent and manager of a mine shall afford every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act. (Section 9).

#### MANAGEMENT OF MINES

4. Every mine shall be under the control, management and direction of one manager having the prescribed qualifications. (Section 17).

5. The owner, agent and manager of every mine shall be responsible that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the Regulations, Rules and Bye-laws and any order made thereunder. (Section 18).

#### PROVISION OF DRINKING WATER, AMBULANCE APPLIANCES AND LATRINES

6. In every mine, both above and below ground—

(a) a sufficient supply of cool and wholesome drinking water shall be provided and maintained at suitable points conveniently situated for all persons employed in the mine. (Section 19).

(b) A sufficient number of first-aid boxes shall be provided and maintained. (Section 21).

(c) A sufficient number of latrines and urinals, separately for males and females, shall be provided in every mine at suitable places accessible at all times to all persons employed in the mine. All latrines and urinals shall be maintained in a clean and sanitary condition. (Section 20).

## ACCIDENTS

7. Where there occurs in or about a mine an accident causing loss of life or serious bodily injury or any dangerous occurrence, a notice in the prescribed form shall be sent to the prescribed authorities and simultaneously a copy of such notice shall be posted at the mine on a special notice board and kept posted for not less than two months from the date of such posting. (Section 23).

8. Where any person employed in a mine contracts any disease connected with mining operations, the owner, agent or manager shall send notice thereof to the Chief Inspector and to such other authorities as may be prescribed. (Section 25).

## HOURS AND LIMITATION OF EMPLOYMENT

9. No person shall work in a mine on more than six days in any one week. (Section 28).

10. If any person works, as provided under this Act, on any day of rest fixed for him he should be given a compensatory day of rest within that or the following two months. (Section 29).

11. No adult shall work above ground in a mine for more than forty-eight hours in any week or for more than nine hours in any day and he shall have at least half an hour's rest after working for not more than five hours. The spread over of the period of work including rest interval shall not normally be more than 12 hours. (Section 30).

12. No adult shall work below ground in a mine for more than forty-eight hours in any week or for more than eight hours in any day, except that a pump-minder, an onsetter or attendant of continuously operated machinery may work for not more than nine hours on any day or for not more than fifty-four hours in any week. (Section 31).

13. Where a person works in a mine for more than forty-eight hours, whether above or below ground, he shall get, for such overtime work, wages at the rate of—

(a) twice his ordinary rate of wages, for underground work; and

(b) one and a half times his ordinary rate of wages for work above ground.

'Ordinary rate of wages' means the basic wages plus such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of food-grains and other articles but does not include a bonus (Section 33).

14. No person shall be allowed to work in a mine who has already been working in any other mine within the preceding 12 hours (Section 34).

15. Except as may be permitted under section 39(a), no person shall work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty in any one quarter. (Section 35).

16. The Manager of every mine shall post outside the office a notice of working hours and no person shall be allowed to work otherwise than in accordance with the notice. (Section 36).

17. The provisions regarding weekly day of rest, hours of work above and below ground and of section 36 shall not apply to supervising staff (Section 37).

18. In case of an emergency, the manager may permit in accordance with the rules under section 39 persons to be employed in contravention of the provisions regarding hours of work. (Section 38).

## EMPLOYMENT OF ADOLESCENTS

19. No person aged between 15 and 18 years shall work underground in a mine unless he has been certified as fit for work as an adult by a Certifying Surgeon and carries, while at work, a token giving a reference to such certificate and he shall have rest for at least half an hour after not more than four and a half hours of continuous work. He shall not be employed between 6 P.M. to 6 A.M. (Section 40).

20. A certificate of fitness granted or renewed for the purpose of section 40 shall be valid only for 12 months and may be conditional regarding employment in general or regarding the nature of work and may be revoked by a Certifying Surgeon if the holder of a certificate is no longer fit for the work specified in the certificate. Where a certificate or the renewal of a certificate is refused a Certifying Surgeon shall state his reasons for refusal if the person concerned so requires. The adolescent or his parents shall not be liable to pay any fees for medical examination under section 40 in all cases where he is sent by the manager of the mine in which he will be employed if found fit. (Section 41).

21. An adolescent, granted a certificate of fitness and working in a mine shall be considered to be an adult for the purposes of this Act. (Section 42).

22. Where an Inspector is of opinion that any person working in a mine without a certificate of fitness is an adolescent or that an adolescent working with such a certificate is no longer fit, he may ask the manager not to employ such person till he is examined or re-examined as the case may be and declared fit by a Certifying Surgeon or certified by him not to be an adolescent. (Section 43).

23. (1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

(a) for more than four and a half hours in any day; or

(b) between the hours of 6 P.M. and 6 A.M.

(2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent. (Section 44).

#### EMPLOYMENT OF WOMEN AND CHILDREN

24. No person below the age of fifteen years shall be employed in any mine or allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining work is being done. (Section 45).

25. No woman shall be employed at any time of the day or night in any part of a mine which is below ground, and no woman shall be employed in any mine above ground or in open cast excavations except between the hours of 6 A.M. and 7 P.M. (Section 46 and Notification S.R.O. 1395 dated 9th August 1952).

#### REGISTRATION OF WORKERS

26. For every mine, there shall be kept a register of employees showing in respect of each person his or her name, age, sex, nature of employment, date of commencement of employment, the periods of work, the intervals and days of rest, the relay to which he or she belongs, reference to the certificate of fitness in case of an adolescent and the entries in the register shall be authenticated by the signature or thumb impression of the person concerned. There shall also be kept separate registers for workpersons working (a) below ground (b) in open cast workings and (c) above ground showing in respect of each person the name, nature of his employment and the hours of relay and the relay to which he belongs. The register of persons employed below ground shall show at any moment the name of any person who is then present below ground in the mine. (Section 48).

#### LEAVE WITH WAGES.

27. Every person employed in a mine who has completed twelve months' continuous service (not less than 190 attendances in case of loaders or piece-rated workers working below ground and not less than 265 attendances for other persons) in the mine, shall be allowed, during the following twelve months, leave with full pay:

(a) for fourteen days, in case of monthly paid staff;

(b) for seven days, in case of other workers.

No application for leave shall ordinarily be refused. If any person is discharged before he can take leave to which he is entitled he shall be paid his wages or pay for that period of leave. (Section 51).

28. For the leave allowed to a loader or a piece-rated worker employed below ground he shall be paid at the rate of daily average earnings during the month of December. For the leave allowed to a person who is paid weekly or monthly the rate shall be equal to his normal daily wages during the week preceding his leave. Daily average earnings or wages shall include cash equivalent of free foodgrains and other cash compensation drawn during the period concerned. (Section 52).

29. Any monthly paid employee who has been granted leave for ten days or more and any weekly paid employee or a loader or piece-rated worker working below ground who has been granted leave for five days or more shall be paid in advance the wages due for the period of the leave allowed. (Section 53).

## PENALTIES

30. Any person obstructing an Inspector in the execution of his duties may be punished with imprisonment upto three months or a fine upto Rs. 500/-; or both. (Section 63).

31. Whoever makes, gives or delivers any plan, return, notice record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, may be punished with imprisonment upto three months or a fine upto Rs. 500/-; or both. (Section 64).

32. Whoever knowingly uses for himself a certificate of fitness granted (under Section 40) to some other person or allows a certificate of fitness granted to him to be used by any other person, may be punished with imprisonment upto one month or a fine upto Rs. 40/-; or both. (Section 65).

33. If any person below 18 years of age is employed in more than one mine on any day, his parents, guardian or custodian may be punished with a fine upto Rs. 50/- (Section 68).

34. If any mine is run without a manager, the owner or agent may be punished with imprisonment upto three months or with a fine upto Rs. 500/-; or both. (Section 69).

35. Whoever fails to give notice of any accidental occurrence or to post a copy of the notice on a special notice board, may be punished with imprisonment upto three months or a fine upto Rs. 500/-; or both. (Section 70).

36. No person shall interfere with, misuse or wilfully neglect to make use of any appliance provided for the purpose of health, safety or welfare of the workers, or wilfully do anything likely to endanger himself or others. (Section 72).

37. Whoever contravenes any provision of this Act or of any Regulation, Rule or bye-law, or of any order made thereunder, for which no penalty is expressly provided may be punished with imprisonment upto three months, or a fine upto Rs. 1,000/-; or both. (Section 73).

38. Whoever contravenes any provision of this Act or of any Regulation, Rule or Bye-law or of any order made thereunder may be punished:

- (a) if such contravention results in loss of life, with imprisonment upto one year or a fine upto Rs. 5,000; or both.
- (b) if such contravention results in serious bodily injury, with imprisonment upto six months or a fine upto Rs. 2,000/-; or both. (Section 74).

## SIXTH SCHEDULE—(See Rule 80).

**1**  
Coal Mines situated in the district of  
Lakhimpur in the State of Assam.

**2**  
One hour in advance of Indian Standard  
Time.

## MINES (POSTING UP OF ABSTRACTS) RULES, 1954

## Arrangement of Paragraphs

1. Short title.
2. Definition.
3. Posting up of Abstracts from the Act.

## SCHEDULE—Inspectors.

Management of Mines.

Provision of Drinking Water, Ambulance Appliances and Latrines.

Accidents.

Hours and Limitation of Employment.

Employment of Adolescents.

Employment of Women and Children.

Registration of Workers.

Leave with Wages.

Penalties.

## **MINES (POSTING UP OF ABSTRACTS) RULES, 1954<sup>1</sup>**

In exercise of the powers conferred by clause (m) of section 58 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby makes the following rules, the same having been previously published and referred to every Mining Board as required by sub-sections (1) and (4) of section 59 of the said Act, namely:—

1. **Short title.**—(1) These rules may be called the Mines (Posting up of Abstracts) Rules, 1954.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. **Definition.**—In these rules, unless there is anything repugnant in the subject or context, "the Act" means the Mines Act, 1952 (XXXV of 1952), and "section" means a section of the Act.

3. **Posting up of Abstracts from the Act.**—(1) The abstracts of the Act contained in the Schedule annexed hereto shall be posted up outside the office of every mine in English, Hindi and either in the language of the district in which the mine is situated or the language understood by a majority of the persons employed in the mine, and shall be maintained in clear and legible condition.

(2) Notwithstanding anything in sub-rule (1), the Chief Inspector or an Inspector may require the said abstract to be posted at any other place or in any other language.

### **Schedule**

#### **INSPECTORS**

1. Any Inspector may enter and inspect any mine (by day and night) and make such examination and enquiry as may be necessary, to determine the condition of the mine and to ascertain whether the provisions of this Act and of the rules, regulations, and bye-laws are being observed. If he has reason to believe that these provisions have been or are being contravened, he may search any place and take possession of any register or record concerning the mine. (Section 7).

2. Any Government servant, duly authorised by the Chief Inspector or an Inspector, may enter any mine for the purpose of surveying, levelling and measuring after giving at least 3 days' notice to the manager. (Section 8).

3. Every owner, agent and manager of a mine shall afford every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or enquiry under this Act. (Section 9).

#### **MANAGEMENT OF MINES**

4. Every mine shall be under the control, management and direction of one manager having the prescribed qualifications. (Section 17).

5. The owner, agent and manager of every mine shall be responsible that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the rules, regulations, and bye-laws and any order made thereunder. (Section 18).

#### **PROVISION OF DRINKING WATER, AMBULANCE APPLIANCES AND LATRINES**

6. In every mine, both above and below ground—

(a) A sufficient supply of cool and wholesome drinking water shall be provided and maintained at suitable points conveniently situated for all persons employed in the mine. (Section 19).

(b) A sufficient number of first-aid boxes shall be provided and maintained. (Section 21).

(c) A sufficient number of latrines and urinals, separately for males and females, shall be provided in every mine at suitable places accessible at all times to all persons employed in the mine. All latrines and urinals shall be maintained in a clean and sanitary condition. (Section 20).

#### **ACCIDENTS**

7. Where there occurs in or about a mine an accident causing loss of life or serious bodily injury or any dangerous occurrence, a notice in the prescribed form shall be sent

<sup>1</sup> These Rules were published under Ministry of Labour Notification No. S.R.O. 2403 dated the 12th July, 1954 in Gazette of India, Part II, Sec. 3, page 1797.

to the prescribed authorities and simultaneously a copy of such notice shall be posted at the mine on a special notice board and kept posted for not less than two months from the date of such posting. (Section 23).

8. Where any person employed in a mine contracts any disease connected with mining operations, the owner, agent or manager shall send notice thereof to the Chief Inspector and to such other authorities as may be prescribed. (Section 25).

#### HOURS AND LIMITATION OF EMPLOYMENT

9. No person shall work in a mine on more than six days in any one week. (Section 28).

10. If any person works, as provided under this Act, on any day of rest fixed for him, he should be given a compensatory day of rest within that or the following two months. (Section 29).

11. No adult shall work above ground in a mine for more than forty-eight hours in any week or for more than nine hours in any day and he shall have at least half an hour's rest after working for not more than five hours. The spread over of the period of work including rest interval shall not normally be more than 12 hours. (Section 30).

12. No adult shall work below ground in a mine for more than forty-eight hours in any week or for more than eight hours in any day, except that a pump-minder, an onsetter or attendant of continuously operated machinery may work for not more than nine hours on any day or for not more than fifty-four hours in any week. (Section 31).

13. Where a person works in a mine for more than forty-eight hours, whether above or below ground, he shall get, for such overtime work, wages at the rate of—

(a) twice his ordinary rate of wages, for underground work; and

(b) one and a half times his ordinary rate of wages for work above ground.

'Ordinary rate of wages' means the basic wages plus such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of foodgrains and other articles but does not include a bonus. (Section 33).

14. No person shall be allowed to work in a mine who has already been working in any other mine within the preceding 12 hours. (Section 34).

15. Except as may be permitted under section 39(a), no person shall work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty in any one quarter. (Section 35).

16. The Manager of every mine shall post outside the office a notice of working hours and no person shall be allowed to work otherwise than in accordance with the notice. (Section 36).

17. The provisions regarding weekly day of rest, hours of work above and below ground and of section 36 shall not apply to supervising staff. (Section 37).

18. In case of an emergency, the manager may permit in accordance with the rules under section 39 persons to be employed in contravention of the provisions regarding hours of work. (Section 38).

#### EMPLOYMENT OF ADOLESCENTS

19. No person aged between 15 and 18 years shall work underground in a mine unless he has been certified as fit for work as an adult by a Certifying Surgeon and carries, while at work, a token giving a reference to such certificate and he shall have rest for at least half an hour after not more than four and a half hours of continuous work. He shall not be employed between 6 P.M. to 6 A.M. (Section 40).

20. A certificate of fitness granted or renewed for the purpose of section 40 shall be valid only for 12 months and may be conditional regarding employment in general or regarding the nature of work and may be revoked by a Certifying Surgeon if the holder of a certificate is no longer fit for the work specified in the certificate. Where a certificate or the renewal of a certificate is refused a Certifying Surgeon shall state his reasons for refusal if the person concerned so requires. The adolescent or his parents shall not be liable to pay any fees for medical examination under section 40 in all cases where he is sent by the manager of the mine in which he will be employed if found fit. (Section 41).

21. An adolescent, granted a certificate of fitness and working in a mine shall be considered to be an adult for the purposes of this Act. (Section 42).

22. Where an Inspector is of opinion that any person working in a mine without a certificate of fitness is an adolescent or that an adolescent working with such a certificate is no longer fit, he may ask the manager not to employ such person till he is examined or re-examined, as the case may be, and declared fit by a Certifying Surgeon or certified by him not to be an adolescent. (Section 43).

23. (1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

- (a) for more than four and a half hours in any day; or
- (b) between the hours of 6 P.M. and 6 A.M.

(2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent. (Section 41).

#### EMPLOYMENT OF WOMEN AND CHILDREN

24. No person below the age of fifteen years shall be employed in any mine or allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining work is being done. (Section 45).

25. No woman shall be employed at any time of the day or night in any part of a mine which is below ground, and no woman shall be employed in any mine above ground or in open cast excavations except between the hours of 6 A.M. and 7 P.M. (Section 46 and Notification No S.R.O. 1305, dated the 9th August, 1952).

#### REGISTRATION OF WORKERS

26. For every mine, there shall be kept a register of employees showing in respect of each person his or her name, age, sex, nature of employment, date of commencement of employment, the periods of work, the intervals and days of rest, the relay to which he or she belongs, reference to the certificate of fitness in case of an adolescent and the entries in the register shall be authenticated by the signature or thumb impression of the person concerned. There shall also be kept separate registers for work persons working (a) below ground, (b) in opencast workings, and (c) above ground showing in respect of each person the name, nature of his employment and the hours of relay and the relay to which he belongs. The register of persons employed below ground shall show at any moment the name of any person who is then present below ground in the mine. (Section 48).

#### LEAVE WITH WAGES

27. Every person employed in a mine who has completed twelve months' continuous service (not less than 100 attendances in case of loaders or piece-rated workers working below ground and not less than 265 attendances for other persons) in the mine, shall be allowed, during the following twelve months, leave with full pay:

- (a) for fourteen days, in case of monthly paid staff;
- (b) for seven days, in case of other workers.

No application for leave shall ordinarily be refused. If any person is discharged before he can take leave to which he is entitled he shall be paid his wages or pay for that period of leave. (Section 51).

28. For the leave allowed to a loader or a piece-rated worker employed below ground he shall be paid at the rate of daily average earnings during the month of December. For the leave allowed to a person who is paid weekly or monthly the rate shall be equal to his normal daily wages during the week preceding his leave. Daily average earnings or wages shall include cash equivalent of free foodgrains and other cash compensation drawn during the period concerned. (Section 52).

29. Any monthly paid employee who has been granted leave for ten days or more and any weekly paid employee or a loader or piece-rated worker working below ground who has been granted leave for five days or more shall be paid in advance the wages due for the period of the leave allowed. (Section 53).

#### PENALTIES

30. Any person obstructing an Inspector in the execution of his duties may be punished with imprisonment upto three months or a fine upto five hundred rupees or both. (Section 63).

31. Whoever makes, gives, or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true, may be punished with imprisonment upto three months or a fine upto five hundred rupees or both. (Section 64).



32. Whoever knowingly uses for himself a certificate of fitness granted (under section 40) to some other person or allows a certificate of fitness granted to him to be used by any other person, may be punished with imprisonment upto one month or a fine upto fifty rupees or both. (Section 65).

33. If any person below 18 years of age is employed in more than one mine on any day, his parents, guardian or custodian may be punished with a fine upto fifty rupees. (Section 68).

34. If any mine is run without a manager, the owner or agent may be punished with imprisonment upto three months or with a fine upto five hundred rupees or both. (Section 69).

35. Whoever fails to give notice of any accidental occurrence or to post a copy of the notice on a special notice board, may be punished with imprisonment upto three months or a fine upto five hundred rupees or both. (Section 70).

36. No person shall interfere with, misuse or wilfully neglect to make use of any appliance provided for the purpose of health, safety or welfare of the workers, or wilfully do anything likely to endanger himself or others. (Section 72).

37. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law, or of any order made thereunder, for which no penalty is expressly provided may be punished with imprisonment upto three months, or a fine upto one thousand rupees or both. (Section 73).

38. Whoever contravenes any provision of this Act or of any rule, regulation, or bye-law or of any order made thereunder may be punished:

- (a) if such contravention results in loss of life, with imprisonment upto one year or a fine upto five thousand rupees or both;
- (b) if such contravention results in serious bodily injury, with imprisonment upto six months or a fine upto two thousand rupees; or both. (Section 74).

## MINES (CERTIFYING SURGEONS) RULES, 1954 (DRAFT)

### Arrangement of Paragraphs

1. Short title.
2. Definition.
3. Powers of Certifying Surgeon.
4. Duties of Certifying Surgeon.
5. Certificate of Fitness.
6. Duplicate Certificate.
7. Re-Examination.
8. Fresh Examination.
9. Metal Tokens.

## MINES (CERTIFYING SURGEONS) RULES, 1954 (DRAFT)<sup>1</sup>

1. **Short title.**—These rules may be called the Mines (Certifying Surgeons) Rules, 1954.
2. **Definition.**—In these rules, unless the context otherwise requires,

- (a) the "Act" means the Mines Act, 1952 (XXXV of 1952); and
- (b) "section" means a section of the Act.

3. **Powers of Certifying Surgeon.**—A Certifying Surgeon may within the local limits of his jurisdiction or in respect of mines or class or description of mines assigned to him make such inspection, examination or inquiry as he thinks fit for the purposes of the Act and it shall be the duty of the owner, agent or manager of the mines concerned to afford the Certifying Surgeon all reasonable facilities for carrying out such inspection, examination or inquiry as the case may be.

4. **Duties of Certifying Surgeon.**—(1) For the purposes of examination and certification of young persons who desire to obtain a certificate of fitness, the Certifying Surgeon shall arrange a suitable time and place for the attendance of such persons, and shall give previous notice in writing of such arrangements to the managers of mines concerned

<sup>1</sup> These Draft Rules were published under Ministry of Labour Notification No. S.R.O. 802 dated the 2nd March, 1954.

within the local limits of his jurisdiction or mines or class or description of mines assigned to him.

(2) The Certifying Surgeon shall, upon a request being made to him by the Chief Inspector or Inspector, carry out such examination and furnish him with such report as he may indicate in respect of any mine or class or description of mines in which operations involve any risk of injury to the health of any person or class of persons employed therein.

(3) Every certificate of fitness granted by the Certifying Surgeon shall be prepared by filling up the foil and the counterfoil of the certificate, on both of which shall be impressed the left thumb mark of the adolescent in whose name the certificate is granted.

(4) The Certifying Surgeon shall, when satisfied as to the correctness of the entries made therein sign the foil and initial the counterfoil of the certificate and shall deliver the foil to the applicant unless the adolescent has been examined in pursuance of the provision of sub-section (5) of section 41, in which case the Certifying Surgeon shall deliver the foil to the manager of the mine in which the adolescent desires to be employed.

(5) A Certifying Surgeon revoking a certificate under sub-section (2) of section 41, shall write the word "Revoked" in red ink on the foil and the counterfoil of the certificate.

**5. Certificate of fitness.**—A certificate of fitness granted or renewed in the Form annexed to these rules shall be deemed to be a certificate duly granted or renewed, as the case may be, in the manner provided for the purposes of sections 40, 43 and 47.

**6. Duplicate Certificate.**—(1) If the Certifying Surgeon is satisfied that a certificate of fitness granted under these rules has been lost or otherwise mislaid, he may on application, after such verification, as he deems fit, grant a duplicate certificate to the applicant. The word "Duplicate" shall be clearly written in red ink across any such duplicate certificate and initialled by him. The counterfoil of the certificate shall be simultaneously marked "Duplicate" and initialled.

(2) For every duplicate certificate granted under sub-rule (1), a fee not exceeding one rupee shall be payable by the applicant. The Certifying Surgeon shall maintain a register of all duplicate certificates so issued and shall initial each entry thereon.

(3) No duplicate certificate shall be granted to any adolescent otherwise than in accordance with the provision of this rule.

**7. Re-Examination.**—(1) Every adolescent in respect of whom a certificate of fitness has been issued, so long as he remains employed in a mine, shall be re-examined by the Certifying Surgeon within twelve months of the date of the examination immediately preceding.

(2) The Certifying Surgeon shall upon making such re-examination make necessary entries in the said certificate both on the foil and counterfoil and deliver the foil to the manager of the mine.

**8. Fresh Examination.**—(1) If any person sent up for medical examination in pursuance of section 40 or section 43 or section 47 is not certified to be fit by the Certifying Surgeon, he shall not, without the permission in writing of an Inspector, be sent for another medical examination unless a period of six months has elapsed from the time when he was last sent up for medical examination.

(2) Any certificate obtained in contravention of sub-rule (1) shall be void.

**9. Metal Tokens.**—(1) The Certifying Surgeon shall issue to every adolescent to whom a certificate of fitness is granted, a metal token stamped with the letter 'P' and bearing the same serial number as the certificate.

(2) The person to whom such token is issued shall so long as the corresponding certificate remains in force, retain such token in his immediate possession and shall not transfer it or dispose of it. In the event of the corresponding certificate being revoked, the token shall be returned to the Certifying Surgeon.

(3) A duplicate token may be obtained for the reasons, in the manner and subject to the condition specified in rule 6.

(4) A record of every token so issued and the person to whom it is issued shall be maintained by the Certifying Surgeon.

## CERTIFYING SURGEONS UNDER THE MINES ACT, 1952

*S. R. O. 1135 dated 23rd May, 1955*—In exercise of the powers conferred by sub-section (1) of section 11 of the Mines Act, 1952 (XXXV of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour, No. M. 41(20) 52 dated the 27th December, 1952, the Central Government hereby appoints the Medical Officers of the Mines Department, being qualified medical practitioners, specified in column 2 of the Schedule hereto annexed to be Certifying Surgeons for the purposes of the said Act, within

the local limits and for the class or description of mines specified against them in the corresponding entry in column 3 of the said Schedule—

Sl. No.	Particulars of Officers.	Local limits of jurisdiction or mines or class or description of mines.
1	2	3
1	Medical Inspector of Mines, Dhanbad.	All mines in India except in the State of Jammu and Kashmir.
2	Junior Labour Inspector of Mines, Dhanbad.	All mines in the States of Assam, Bihar, West Bengal, Orissa and Uttar Pradesh.
3	Junior Labour Inspector of Mines, Chhindwara.	All mines in the States of Mahya Pradesh and Vindhya Pradesh, Sasti Colliery in Hyderabad State and all mines in Bombay State excluding those in the district of North Kanara, Dharwar, Surat and north of river Tapti.
4	Junior Labour Inspector of Mines, Ajmer.	All mines in the States of Ajmer-Merwara, Rajasthan, East Punjab, Himachal Pradesh, Madhya Bharat, Saurashtra, Delhi, Kutch and in Patiala and East Punjab States Union. All mines in Bombay State situated on the north of river Tapti and those in the district of Surat.
5	Junior Labour Inspector of Mines, Nellore.	All mines in the States of Andhra, Madras, Mysore and Travancore-Cochin. All mines in Hyderabad State excluding Sasti Colliery. All mines in the district of North Kanara and Dharwar in the State of Bombay

## MYSORE GOLD MINES RULES, 1953

### Arrangement of Paragraphs

CHAPTER I—PRELIMINARY

CHAPTER II—POSTING OF NOTICES, ETC.

CHAPTER III—SANITARY AND HEALTH PROVISIONS

CHAPTER IV—FIRST-AID AND MEDICAL APPLIANCES

CHAPTER V—FIRE RESCUE BRIGADE

CHAPTER VI—MISCELLANEOUS

## MYSORE GOLD MINES RULES, 1953<sup>1</sup>

In exercise of the powers conferred by Section 58 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of section 59 of the said Act, namely:—

### CHAPTER I—PRELIMINARY

1. (1) These Rules may be called the Mysore Gold Mines Rules, 1953.  
(2) They shall apply only to gold mines in the State of Mysore.
2. In these rules unless the context otherwise requires:—
  - (1) "the Act" means the Mines Act, 1952.
  - (2) "Section" means a section of the Act.
  - (3) "Superintendent" means the manager of a gold mine.

<sup>1</sup> These Rules were published under Ministry of Labour Notification No. S.R.O. 1787 dated the 17th September, 1953 in the Gazette of India 1953, Part II—Sec. 3, p. 1502. Chapters II, III and VI of the Rules have been rescinded by Section 84 of the Mines Rules, 1955.

- (4) "Medical Officer" is the duly qualified person appointed by the owner to have medical charge of the persons employed at the mine.
- (5) "Mining Officer" includes the Superintendent, Chief Underground Agent, Chief Surveyor, Chief Engineer, Chief Metallurgist, Chief Cashier and Accountant and their respective Assistants, and others holding posts of equal importance.

#### CHAPTER II—POSTING OF NOTICES, ETC.

3. For the purpose of making these rules known to all persons in and about the mine, printed copies thereof shall be posted in conspicuous places at the mine where they can be conveniently read, and every person employed in or about the mine is enjoined to thoroughly acquaint himself with them so far as they affect his duties.

4. All rules and notices shall be printed or written in such languages as the Chief Inspector shall direct and must be posted up in a position where they can be easily seen by persons frequenting the place.

5. All rules and notices posted in or about the mine must be authorised by the Superintendent.

6. Any person pulling down or otherwise defacing any rules or notices, when posted up, shall be guilty of a breach of these rules.

7. *Register of employees.*—The register maintained at every mine in accordance with sub-section (1) of Section 48 shall show the names and such other particulars of—(1) all persons directly employed in the mine; (2) all contractors and work persons they respectively employ; and (3) all mistries, blasters and engine drivers (if any) employed by the contractors.

8. The following persons shall be deemed to be persons holding positions of supervision or management or employed in a confidential capacity, within the meaning of Section 37 of the Act:—

- (a) "Mining Officer"
- (b) "Foreman", "Assistant Foreman", "Head Mistri" and "Electrician."
- (c) "Surveyor."
- (d) Clerks, Accountants and time keepers.

#### CHAPTER III—SANITARY AND HEALTH PROVISIONS

9. The Superintendent shall provide or cause to be provided underground, a supply of wholesome drinking water at points reasonably accessible to working places

10. At every mine a suitable change house or houses with accommodation proportionate in size to the number of persons employed shall be provided for underground workmen. Proper arrangements for bathing, changing and the drying of clothing shall be made.

No person shall use an engine or boiler house for the purpose.

11. At every mine latrine and urinal accommodation on a scale approved by the Inspector shall be provided both on the surface and in the underground workings.

12. All latrines and urinals in or about a mine shall be kept in a sanitary condition.

13. At every mine arrangements shall be made for keeping the working places and travelling roads both on the surface and underground clean from excreta.

14. No person shall pollute the underground workings with excreta. No person shall wantonly misuse or foul the latrines provided either on the surface or underground.

#### CHAPTER IV—FIRST-AID AND MEDICAL APPLIANCES

15. In all cases of accidents, the owner shall arrange for medical assistance to be rendered to the injured as speedily as possible and shall make the following provision for persons employed in operations conducted under a mining lease:—

- (1) If the number of persons employed daily below ground exceeds 500 or if the total number employed exceeds 1,500 one qualified Medical Officer residing within five miles of the mining block.
- (2) If the number of persons employed daily below ground exceeds 50 or if the total number employed exceeds 500, one Assistant or Sub-Assistant Surgeon, residing within five miles of the mining block.
- (3) If the total number of persons employed exceeds 250, one Assistant or Sub-Assistant Surgeon, residing within ten miles of the mining block.

The foregoing limits may be relaxed by the Chief Inspector in the event of the owner making other arrangements to suit the special circumstances of the work under his control.

16. In order to render immediate assistance in cases of injuries as broken bones, wounds, bleeding, contusion, scalding and suffocation, there must be ready at hand at every mine all such necessary articles and medicines as the Medical Officer shall direct and also an ambulance for the removal of injured persons; and so far as possible every person in charge of any work below ground shall be acquainted with the means of giving first-aid to persons injured.

17. At the head of every main travelling shaft an emergency station shall be provided and such emergency station shall be provided with at least the following:—

Two suitably constructed stretchers, two woollen blankets, two or more first-aid boxes, a supply of dressings and splints, Burrell masks, one portable oxygen inhalation apparatus.

18. One or more competent persons holding Ambulance Certificates shall be appointed to take general charge of the emergency station referred to in Rule 17 and be responsible for the upkeep of the apparatus and the appliances provided.

19. Every underground mining official shall carry, while on duty, a water proof box containing materials for first-aid.

#### CHAPTER V—FIRE RESCUE BRIGADE

20. There shall be organised and maintained competent Fire Rescue Brigades on the following scales:—

At every mine where the total number of underground employees is more than—

100—One brigade.

700—Two brigades.

Provided that the owner of a mine or the Superintendent shall be deemed to have complied with this provision if he has acquired the right of calling for brigades from a Central Rescue Station.

A Fire Rescue Brigade shall consist of not less than five persons employed at the mine carefully selected on account of their knowledge of underground work, coolness and power of endurance and certified to be medically fit, a majority of whom shall be trained in First-aid work.

#### CHAPTER VI—MISCELLANEOUS.

21. No person shall be permitted to take or consume any intoxicating drink or drug while at work in a mine and no person shall be permitted to enter or remain in or about a mine in a state of intoxication.

## MYSORE GOLD MINES REGULATIONS, 1953

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### MYSORE GOLD MINES REGULATIONS, 1953<sup>1</sup>

In exercise of the powers conferred by Section 57 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby makes the following regulations, the same having been previously published as required by sub-section (1) of section 59 of the said Act, namely:—

#### CHAPTER I—PRELIMINARY

1. **Short title and extent.**—(1) These regulations may be called the Mysore Gold Mines Regulations, 1953.

(2) They shall extend to the whole of the State of Mysore and apply only to gold mines therein.

2. **Definitions.**—In these regulations unless the context otherwise requires:—

(1) "the Act" means the Mines Act, 1952.

<sup>1</sup> These Regulations were published under Ministry of Labour Notification No. S.R.O. 1788 dated the 17th September, 1953, in Gazette of India, 1953, Part II—Sec. 3, p. 1504.

(2) "District Magistrate" in relation to any mine, means the District Magistrate of the district in which the mine is situated:

Provided that in the case of a mine which is situated partly in one district and partly in another, the District Magistrate for the purpose of these regulations shall be the District Magistrate authorised in this behalf by the Central Government.

(3) "Form" means a form as set out in the Schedule.

(4) "Superintendent" means the manager of a gold mine.

(5) "Chief Underground Agent" is the Officer of the mine who is in charge of the whole of the underground portion thereof under the direction of the Superintendent.

(6) "Assistant Underground Agent" is an officer whose duty it is to assist the Chief Underground Agent.

(7) "Chief Engineer" is the officer in charge of all the machinery of the mine.

(8) "Assistant Engineer" is an officer whose duty it is to assist the Chief Engineer.

(9) "Mining Officer" includes the Superintendent, Chief Underground Agent, Chief Surveyor, Chief Engineer, Chief Metallurgist, Chief Cashier and Accountant and their respective Assistants, and others holding posts of equal importance.

(10) "Underground Foreman" is a subordinate employee of the mine to whom the detailed execution of part of the duties of a Chief or Assistant Underground Agent is delegated.

(11) "Assistant Underground Foreman or Head Mestri" is a subordinate employee whose duty it is to see that work is done in a safe and workmanlike manner in the part of the mine assigned to him.

(12) "Workman" includes every person engaged in mining operations and subordinate in position to an Assistant Underground Foreman.

(13) "Working place" means any place above or below ground where any mining operation is being carried on, and includes any winze, pass, way or other means of access thereto, which is not used for general travelling purposes.

(14) "Working party" means a party of two or more men working at the same working place.

(15) "Blaster" means a workman employed in blasting operations, who prepares charges of explosives, charges holes and fires shots and includes a Blaster Mistri.

(16) "Mestri" means any workman in charge of a working party and the working place assigned to him.

(17) "Banksman" means a workman stationed at the shaft top specially appointed to superintend the raising and lowering of materials, tools and persons.

(18) "Signalman" means a workman specially authorised to transmit signals between the shaft top and the engine driver and between the shaft top and the stations below ground.

(19) "Bellman" means a workman specially appointed to superintend the loading and unloading of persons at any stations below ground, and the transmission of signals between such station and the shaft top.

(20) "Contractor" is one with whom a Company has contracted for the whole or any part of any work which is ordinarily part of the Mining Industry.

(21) "Contractor's Mestri" means any mistri in charge of a working party and the working place assigned to him.

(22) The "Immediate Superior" of any person employed in a mine is the person whether a Mining Officer, or Foreman, or Assistant Underground Foreman or Contractor or Mistri, from whom he takes orders. In the case of a workman other than a mistri, it will generally be the person in charge of his working place.

(23) "Medical Officer" is the duly qualified person appointed by the owner to have medical charge of the persons employed in the mine.

(24) "Shaft" means any adit, or vertical or inclined way, or opening, leading from the surface to the underground working, or from one portion of the underground workings to another which is or might be, used for winding, draining, travelling or ventilating purposes in connection with prospecting or mining operations.

(25) A "Shinking Shaft" is a shaft exclusively devoted to its depth being increased.

(26) "Winze" or "Rise" means a small underground shaft, either vertical or inclined.

(27) "Support" shall include timber work, masonry iron work or other means of securing ground.

(28) "Misfire" shall mean a hole in which the entire charge of explosive has failed to explode.

(29) "Socket" shall mean a hole or part of a hole remaining after blasting and which may or may not contain a remnant of a charge of explosives.

## CHAPTER II—SURFACE PROTECTION

3. **Fencing of subsidences.**—Where mining operations have caused subsidences or cavities on the surface, or where such are likely to occur, such places shall be securely fenced in and conspicuous notice boards put up to warn persons off.

4. **Protection of public squares, etc.**—For the protection of public squares, roads, railways, cemeteries, rivers, water-rights, buildings and other property on the surface, the reefs, or other mineral deposits, must be left intact for such depth below them and for such horizontal distance as the Chief Inspector shall prescribe.

5. **Filling of excavations.**—All excavations made contrary to the provisions of the preceding regulation, shall be immediately filled up with rock, sand or earth by the person or persons responsible for such excavations.

6. **Protection of shaft mouths.**—The top and side entrances of all shafts, that are more than 10 feet deep, must be kept securely fenced or covered, except so far as may be necessary to allow of mining operations being efficiently carried on. The fence may be removed for necessary work if due precautions are taken.

7. **Abandoned trenches, etc., to be filled in.**—When any shaft, trench or other excavation more than 10 feet deep, made in the course of mining operations, is or has been abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurs, the owner and every other person interested in the land in which such excavation is situated shall without delay, either fill up such shaft, trench or other excavation, or protect the same by a substantial stone barrier on all sides at least 3 feet 6 inches high and 2 feet thick:

Provided that this regulation may be relaxed with the consent of the Inspector or of the District Magistrate in the case of an open working of which no side has a steeper slope than 45° and which is not considered to be dangerous.

8. **Protection round prospecting trenches.**—In digging prospecting trenches, the materials excavated must be used to form approximately equal ridges on all sides.

9. **Removal of overburden in open workings.**—In open workings, the overburden and all loose ground and materials shall be removed sufficiently far from the edge or otherwise and made secure to prevent danger to persons employed in the mine.

10. **Open workings.**—The sides of open workings shall be sloped, stepped or secured in such a manner as to prevent danger from falls of material and no side shall be cut or worked so that any portion of it projects or overhangs.

11. **Protection round open workings.**—Any place in or about an excavation which is dangerous shall be made safe or shall be kept securely fenced. Should any doubt arise as to whether a place is dangerous or not, the opinion of an Inspector or of the District Magistrate shall be conclusive on the point.

12. **Fencing entrance to open workings.**—Where an excavation, which has been found as the result of any mining operation, extends within fifty feet of a public road or dwelling house, and persons are likely to be endangered thereby, substantial fencing shall be erected and maintained around the excavation.

13. **Open workings provision of footpaths.**—Every foot-path along which loads are carried in open workings by human agency shall comply with the following requirements:—

(a) its breadth shall not be less than 3 feet;

(b) its slope shall be no greater than one vertical to two horizontal;

(c) at every place where its slope exceeds one vertical to four horizontal reasonably level steps should be provided such that the vertical height of every step does not exceed 7 inches and the dimension of every step measured horizontally from the edge to the back is not less than 14 inches.

14. **Restriction of weight of load in the case of women employees.**—Where women are employed in carrying loads, the weight of the load and the height and distance to which they have to be carried shall not be such as to involve risk of injury to the health of the women. If any dispute arises as to whether the risk of injury to health is involved, the decision of the Chief Inspector shall be final.

15. **Poisonous water, etc.**—Inadvertent access to water, which contains poisonous or injurious chemicals used in mining operations must be prevented by fencing or other effectual means and notices must be put up in suitable places warning persons against using such water.

CHAPTER III—WORKMEN

**16. Engine drivers, etc., to have certificates.**—Every driver of a winding engine and every blaster and underground Mestri, shall hold a certificate in that capacity from an Inspector:

Provided that the driver of a winding engine which has cylinders not exceeding seven inches in diameter and which is not used for raising and lowering persons shall not be required to hold a certificate.

**17. Suspension or cancellation of certificates.**—If in the opinion of an Inspector, the holder of a certificate has been guilty of negligence or of misconduct in connection with the discharge of his duties his certificate may be suspended or cancelled by an Inspector subject to confirmation by the Chief Inspector.

**18. Qualifications for a certificate.**—An applicant for a certificate shall have attained the age of 21 years, and—

- (a) for a certificate for work as a winding engine driver on the surface shall have had not less than one year's practical experience in winding operations;
- (b) for a certificate for work as a winding engine driver underground shall have had not less than three years' practical experience underground of which not less than one year shall have been in winding operations;
- (c) for a certificate for work as a blaster or underground mestri shall have had not less than three years' practical experience underground in metalliferous mines.

**19. Periodical Medical examination of engine drivers.**—Every certified engine driver in charge of a winding engine shall hold a medical certificate from a medical officer which shall be renewed or endorsed at intervals not exceeding three years or at such time or times as the Inspector may require, certifying that the holder is free from deafness, defective vision or any other infirmity, mental or bodily, likely to interfere with the efficient discharge of his duties.

**20. Fees.**—The following fees shall be paid by each applicant for a certificate under the preceding regulation 16:—

			Rs.	as.	p.
Engine Driver, I Class	...	...	7	8	0
Engine Driver, II Class	..	...	5	0	0
Underground Mestri	...	...	5	0	0
Blaster	...	...	5	0	0

**NOTE.**—(1) Except with the permission in writing of the Inspector, no person who does not possess a I Class Certificate shall be employed as a Driver of a winding engine, the cylinders of which exceed twelve inches in diameter. Such permission may be granted in cases of urgency or for specified periods to men on probation or in training.

Only Drivers holding I Class Certificates shall be permitted to drive electric winding engine of 75 H.P. and upwards.

(2) Engine-Drivers of the II class, when applying for I Class Certificate shall pay the difference between the I and II Class fees.

(3) Underground Mestries presenting themselves for examination may, at the same time, qualify as blasters without payment of any additional fee.

**21. Examination for a certificate.**—Every applicant shall appear before an Inspector for examination and, after satisfying the latter as to his competency, shall be entitled to receive a certificate and metal check marked with the registered number of the certificate.

Any applicant who fails to obtain a certificate may re-appear for examination on payment of half the original fee prescribed by regulation 20.

**22. Certificate to be with the Superintendent of Mine.**—Every certificate granted under these regulations shall be kept by the Superintendent in safe custody at the office of the mine at which the holder thereof is employed, and when the holder ceases to be employed at that mine, the certificate shall be returned at once to the office of the Inspector.

**23. Transfer or disposal of metal checks by certificate holder prohibited.**—The metal check given with each certificate shall remain always in the possession of the certificate-holder and must not be transferred or disposed of in any way. The possession of these checks by any person other than the holder of the corresponding certificate, is strictly prohibited and any person finding one shall return it to the office of the Inspector.

**24. Issue of duplicate metal checks.**—When a metal check granted under the preceding regulation is lost, a duplicate may be issued on payment of a fee of Rs. 2 provided the Inspector is satisfied with the identity of the applicant.

**25. Responsibility of employer towards new workmen.**—Any person who engages a workman who is new to the mine must arrange that he is properly looked after until he is acquainted with the mine.

**26. Substitute workmen.**—Any workman sending a substitute in his place shall first obtain the permission of his immediate superior and shall at the same time inform him whether the substitute is acquainted with the mine. If he is not, the person so informed shall see that he is properly looked after. In the case of a substitute for a mistri or blaster, the consent of an Underground Agent and in the case of a substitute for an engine driver, the consent of an Assistant Engineer must be obtained.

#### CHAPTER IV—UNDERGROUND WORKINGS

**27. Foreman or other certified workman to be in charge of working place.**—Every working place where work is being carried on shall be placed under the charge of an underground foreman or assistant underground foreman in the direct employment of the Company or a certified mestri or a blaster who shall be responsible for the safety of such place and shall be present.

When work is carried on by a contractor, it shall be his duty to see that a certified mestri or blaster employed by him is placed in charge of the work and such mestri or blaster shall be responsible for the safety of the working place and shall be present.

**28. Responsibility of the person in charge.**—The person in charge of a working place or place where men are stationed or pass, shall take all precautions to ascertain if the place is safe. If there is reason to suppose that there is any danger to persons working, stationed or passing therein, he shall proceed at once to remove the source of danger, and if he is unable to do so himself, he shall inform an Underground Agent or other Mining Officer or (unless he is himself an Underground Foreman or an Assistant Underground Foreman) an Underground Foreman or Assistant Underground Foreman of the fact as soon as possible, and in any case before leaving the mine. He shall, in the meantime, stop all work or access to such working place, except for the purpose of making the place safe or saving life. A Foreman or Assistant Underground Foreman who receives information under this regulation of danger to a working place shall be then considered in charge of such working place.

**29. Inspection of working places.**—Every working place and every place where persons are stationed or pass, shall be inspected at least once every day when work goes on there, during the morning shift and as far as practicable at least once a week in each of the other shifts by an Underground Agent or Underground Foreman or Assistant Underground Foreman or Head Mestri, who shall satisfy himself that the place is in a safe condition, and he shall report to the Superintendent any case of serious neglect on the part of the person in charge.

**30. Record of inspection.**—The examination under the above regulation of any shaft, by which men enter or leave a mine must be made by an Underground Agent or specially selected Underground Foreman or an Assistant Underground Foreman and the result of one such examination in every week must be entered in a book to be kept on the mine.

**31. Supporting of shafts, etc.**—All shafts in use and all underground workings in which the ground is not sufficiently firm must be made secure with suitable support and such support must be renewed as often as necessary to ensure the safety of the workmen and until so secured or renewed no person shall travel or work therein except for the purpose of making the place secure. When it is absolutely necessary to work below ground suspected to be unsafe, which cannot be removed or permanently secured at once, temporary supports shall where practicable be employed.

**32. Lining of shafts.**—The permanent timbers or lining of brick, concrete or masonry in a shaft either vertical or inclined in the course of sinking shall at no time be more than 20 feet from the shaft bottom.

The provisions of regulation 32 shall not apply—

- (i) When iron or steel rings with a lagging of planks are used below the permanent lining of brick, concrete or masonry in circular or elliptical shafts and are kept close to the shaft bottom. In these cases the permanent lining of the shaft shall at no time be more than 60 feet from the shaft bottom.
- (ii) In winzes not exceeding 8 feet in diameter the amount of timbering and its distance from the winze bottom shall be determined by the Agent in charge.

(iii) When cutting stations at levels temporary supports should be used as may seem necessary.

(iv) In special cases when the sanction of the Inspector has been obtained.

**33. Inflammable timber not to be used.**—In timbering a shaft, care shall be taken that the wood, employed in places where the ground is dry shall not be of an easily inflammable nature and suitable means shall be provided for checking any outbreak of fire.

**34. Workings nearing water Precautions.**—Where a place is likely to contain a dangerous accumulation of water, a working approaching it shall not at any point within 40 yards exceed 8 feet in width and 8 feet in height and there shall be constantly kept at a sufficient distance not being less than five feet six inches in advance at least one bore-hole near the centre of the working and sufficient flank bore-holes on each side.

**35. Boundary Pillars.**—In the underground mining operations the ground on the inside of the boundary lines must be left intact for a width of 6 feet from such boundaries but the working, cutting through or removing these boundary pillars is allowed by agreement between the owners of the adjoining mines.

**36. Recognised travelling road.**—An underground workman commencing work shall proceed to his working place by the recognised travelling road and shall not without due cause stop or loiter on the way. On leaving work, he shall again proceed to leave the mine as directly as possible along the recognised travelling road.

**37. Workman not to leave working place without the permission of mestri.**—A workman having reached his working place shall commence work under the direction of his mestri and shall not leave the working place until the end of his shift without permission of his mestri.

**38. Mestri's duty.**—Every mestri or other person in charge of a working party, shall see that none of the workmen forming the party shall leave the working place without his permission. He shall report to an Underground Foreman any workman so leaving without permission.

**39. Unauthorised persons—Prohibited from or remaining in working place.**—Every mestri or other person in charge of a working place shall see that no other person except those workmen who are on duty at the said working place remain in or at the place and shall report to an Underground Foreman any unauthorised person so doing.

#### CHAPTER V—PREVENTION OF FALL OF THINGS AND PERSONS

**40. Precautions against fall of things, etc.**—Tools, wood, stones or any other articles shall not be put down or allowed to remain in such a position in or near shafts or winzes or openings into stopes where work is going on as may result in their falling into them. When a shaft, winze, rise, chute or stope leads directly into a travelling road or place where persons are stationed or at work the traffic at such places must be guarded against danger from falling articles.

**41. Opening into a shaft, etc., to be covered.**—Every opening into a shaft, winze, chute or sliding hole and any opening into a stope more than ten feet deep below a drive and other dangerous openings shall be provided with a barrier or cover in order to prevent persons or things from falling into them; and the barrier or cover may be temporarily removed when necessary, provided proper precautions are taken to prevent danger to persons.

**42. Precautions while sending material down chute, etc.**—No person shall cast any material down any chute, pass, stope or other place until he has made himself sure that no person is in the way.

**43. Protection for sinkers.**—Men engaged in sinking or in repairing any portion of a shaft must be protected by a suitable covering from objects falling from above. The ladderway may form part of such covering.

**44. Shaft sinking covering.**—Where a winding engine is used at a shaft in the course of sinking, no person shall be allowed to work at the bottom of such shaft unless protected by an adequate covering extending over the whole area of such shaft, sufficient space only being left therein for the passage of any sinking cage, skip, bucket or other means of conveyance. In the case of vertical shafts, such covering shall be situated not more than 75 feet from the shaft bottom. In the case of inclined shafts such covering shall be situated not more than 100 feet from the shaft bottom except with special permission in writing from the Inspector.

**45. Bamboo hats.**—No person shall work underground unless he wears a hard or bamboo hat of a type approved by the Chief Inspector.

**46. Winding compartment, Provision against crossing.**—At every shaft station where it is necessary for workmen to pass from one side of the shaft to the other, provision shall be made for them to do so without entering or crossing a winding compartment. Such passage shall be securely fenced off from moving parts of machinery

**47. Precautions to be observed while working in steep places.**—No member of a gang shall work or be caused or permitted to work at any place with an inclination of more than 45° where inadvertent slipping or overbalancing may result in his sliding down, unless he is secured by a life-line or otherwise safeguarded.

#### CHAPTER VI—SHAFTS AND OUTLETS

**48. Double outlet to surface.**—(1) No Owner, Agent or Superintendent of a mine shall employ any person in a mine or permit any person to be in a mine for the purpose of employment therein, unless—

There are at least two shafts or outlets with which all the underground workings of the mine have communication, so that such shafts or outlets afford separate and efficient means of ingress and egress available to all persons employed in the mine whether the shafts or outlets belong to the same mine or to more than one mine.

(2) **Distance between outlets.**—Provided also, that such shafts or outlets must not at any point be nearer to one another than 30 feet and that there is between two such shafts, or outlets a communication in the mine not less than 4 feet high and 4 feet wide, and that sufficient means of ingress and egress are provided at each shaft.

**49. Exceptions to Reg. 48.**—The provisions of Regulation 48 shall not apply—

- (1) to any shaft which is actually being sunk;
- (2) to any work for the purpose of opening up communication; or
- (3) to any work for the purpose of opening out the mine or proving or searching for minerals which does not continue for more than one year or does not extend for more than 50 feet from the shaft.

**50. Exceptions in certain cases.**—The provisions of these regulations shall also not apply—

- (1) to any other work for the purpose of opening out the mine or proving or searching for minerals;
- (2) in case of an accident to a shaft;
- (3) if the mineral would not repay the cost of a second shaft;
- (4) in other cases where the circumstances of the case would render the provision of two shafts not reasonably practicable and where the rock is firm and there is no reason to apprehend danger from water or noxious gases

Provided that the consent of the Chief Inspector is previously obtained.

**51. Ladderways.**—Where there is only one shaft and it exceeds 100 feet in depth and is not merely a sinking shaft, it shall be provided both with ladders and with other means of raising and lowering men.

#### CHAPTER VII—INCLINES

**52. Manholes.**—Every underground plane on which persons travel on foot, which is self-acting (that is to say, the motive power is the weight of the load in the wagon), or worked by an engine, windlass or gin shall be provided (if exceeding 90 feet in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane shall be provided in every case with sufficient manholes or places of refuge at intervals of not more than 60 feet. No person shall be allowed to travel on foot on any such place if there is not room for a person to stand between the tracks and one of the wells.

**53. Care of manholes.**—Every manhole and space for a place refuge shall be constantly kept clear and no person shall place anything in a manhole or such space so as to prevent access thereto.

#### CHAPTER VIII—WINDING GENERALLY

**54. Electric hoists.**—All electric hoists fitted with mechanically operated brakes shall be so installed that—

(a) **Automatic brakes.**—The mechanically operated brakes will be applied automatically the moment the power supply fails;

(b) **Circuit breaker.**—In case of a heavy overload, such as would be caused by the shaft conveyance leaving the rails or becoming jammed in the shaft, a circuit-breaker will cut off the power and thus allow the mechanically operated brakes to come into play;

(c) **Overwind device.**—A suitable overwind device, which can be set to engage shaft conveyance at any point in the head frame, will cut off the current, in case of an overwind past this point, and thus allow the mechanically operated brakes to come into play. In default of a device of this nature the hoist shall be equipped with some other form of satisfactory and dependable overwind device. Such devices shall be tested out by the hoistman at least once a week;

(d) **Brakes operated by mechanical means.**—The brakes shall, on failure of the power supply, be put into play by mechanical means, preferably gravity, and shall in no case be operated by an auxiliary electric current.

**55. Testing of brakes.**—The operator of a hoisting engine shall not, after going on shift, hoist men until he has satisfied himself by actual test that the hoist-brakes are in good working condition; and, when the hoist-engine is fitted with a friction clutch, it shall be similarly tested.

**56. Windlasses, etc.**—Windlasses, whims and whips in use at shafts and winzes shall be provided with a stopper, lynch-peg or other reliable holder.

**57. Rope-shackles.**—The connection between the rope and the bucket, skip or other conveyance must be of such character that no accidental disconnection can take place and care must be taken that the hooking on and off buckets is done without danger to the workmen.

**58. Buckets, etc., to be steadied.**—(1) No bucket or other means of conveyance shall be allowed to leave the top or bottom of the shaft or winze unless the workman in charge thereof has steadied or caused it to be steadied.

(2) In a vertical shaft in the course of sinking except at time of blasting, the bucket or kibble shall be raised from the bottom slowly and shall not be accelerated until the rider has been picked up.

**59. Guides in vertical shafts.**—Vertical shafts exceeding one hundred feet in depth shall be provided with guides for kibbles unless exempted in writing by the Chief Inspector.

Such guides shall always be kept extended down to the lowest set of timbers; also the crosshead shall be allowed to travel to the lowest set but one and in no case shall the lowest set of timbers be more than fifty feet from the shaft bottom.

**60. How far buckets should be filled.**—In hoisting, the bucket, skip or other receptacle shall not be filled to such a height that any of the contents can fall out and in no case above the level of the brim.

**61. Buckets, etc., to be stopped above sink before being lowered.**—Where a winding engine is used at a shaft in the course of sinking, the cage, skip or bucket or other means of conveyance shall not be lowered directly to the bottom of the said shaft if men are there present but shall be stopped at least 15 feet from the said bottom until the signal to lower it further has been given by one of the sinkers thereat.

**62. Timber, etc., to be fastened while being hoisted.**—In hoisting or lowering timber, tools, etc., ends projecting above the top of the cage, skip or bucket must be securely fastened to the rope or bow. If a detaching hook is employed between the rope and the conveyance, care must be taken to secure it to any material which may project above it.

**63. Winding compartments entry prohibited.**—Entering any section of a winding compartment of a shaft while winding is going on in that section is prohibited except in cases of necessity.

**64. (1) Engines, brakes, operating gear, clutches, etc.**—When winding is effected by means of an engine each drum must be provided with an adequate brake so arranged that it can be easily manipulated by the engine driver when standing at the levers controlling the engine.

(2) The operating gear of the clutch of the drum shall be provided with locking gear to prevent inadvertent withdrawal of the clutch.

(3) **Unclutching drums.**—The driver of a winding engine shall not unclutch a drum of his engine until he has assured himself immediately beforehand by testing the brake of the drum against the full power of the engine that the brake is in proper condition to hold the load suspended from the said drum.

(4) When the drum is unclutched the brake shall only be used for the purpose of maintaining such drum stationary. Lowering from an unclutched drum is not allowed.

(5) **Interlocking device.**—Every winding plant used for the raising and lowering of persons shall have a suitable interlocking device fitted so that it is impossible to unclutch any drum unless the brakes of such drum are on and that it is impossible to release the brakes until the clutch is fully engaged and securely locked.



(6) Lowering or raising of persons in an unclutched cage or skip is prohibited.

**65. Ropes—Quality strength.**—Ropes used for winding must be in good condition and of good quality and manufacture. The wires used in the construction of the ropes shall be of sizes suitable for use with the sheaves and drums fitted.

**66. Ropes—Attachment to drums.**—The rope shall be securely fastened to the drum and there shall be at least three turns of rope on the drum when the cage, skip or bucket is at its lowest point in the shaft.

**67. (1)** No rope, bar, link, chain or other connection shall be used for winding purposes unless it is of good quality and manufacture and free from any patent defect and of adequate calculated strength.

**(2) Strength of bar, etc.**—Every rope used for winding purposes in shafts or winzes over one hundred feet in depth, measured on an incline or vertical as the case may be, shall be made of steel wire and the gauge of the wires used in the construction of such rope shall be suited to the diameter of the sheaves and drums fitted.

**(3)** At the request of the Inspector an adequate sample from the end of any winding rope shall be supplied to him.

**68. Winding during repairs, examination, etc., of shaft.**—(1) No person shall effect repairs, conduct any examination, or do any work in a compartment of a shaft or of a headgear whilst winding operations are being carried on in such compartment and no winding shall be carried on or permitted in any compartment of a shaft whilst persons are engaged in effecting repairs in or in examining such shaft or compartment of a headgear or performing any other work therein, except—

**(a)** where persons are so engaged below the lowest point from which it is required that winding shall take place during such repairs, examination or work;

**(b)** where persons are so engaged in a compartment other than that in which it is required that winding shall take place:

Provided that in either of such cases persons are securely protected from any skip, cage or other winding apparatus, as well as from falling stones and falling materials; or

**(c)** where winding is necessary for the purpose of such repairs, examination, or work; or

**(d)** where such person is engaged in filling skips at ore chutes, if such person is securely protected in a refuge place of adequate dimensions fitted with a signalling device to the authorised persons so arranged that no signal can be given on such device unless the operator is completely inside such refuge place.

**(2)** The person or persons in immediate charge of any repairs, examination, or work in a shaft shall warn the engine driver or drivers who may be on duty at the time at such shaft that such repairs, examination, or work are about to be undertaken, and shall, where practicable, forthwith enter such warning in the driver's log book provided and such entry shall be countersigned by the driver on duty at the time at such shaft and by the driver relieving him. Where it is not practicable for the person or persons in charge of such repairs, examination or work to enter such warning, the entry shall be made by the engine driver on duty. The entry shall be cancelled by the person or persons in immediate charge of such repairs, examination or work, on completion thereof.

**69. Provision of 'dogs' to runners.**—Whether detaching hooks for releasing the rope and hanging up the cage, or skip in case of an overwind are provided or not, the runners shall be sprung or provided with 'dogs' or other device for holding up the cage or skip in all vertical shafts.

**70. Examination of brakes.**—The brakes, shackle and all other parts of the winding gear shall be carefully examined once in every twenty-four hours by a competent person specially appointed for the purpose and a report of every such examination shall be entered forthwith in a book provided for the purpose. The Inspector shall have power to exempt in writing small winding gears and hoists from the provisions of this regulation.

**71. Rope Records Book.**—(a) A register shall be kept at every mine in which the following particulars (obtained from the makers) of all new winding ropes shall be entered in ink and certified to be true by the Superintendent. Each rope, as soon as received, shall be given a serial number in the Register.

Particulars—

Name and address of manufacturer

Date of manufacture

Date of receipt at mine

Length of rope in feet

Diameter and circumference of rope in inches or in the case of flat ropes width and thickness of rope in inches.  
Weight per foot in lbs.

**Construction of rope—**

Number of stands  
Class of core  
Character of 'lay', etc.

**Construction of strands—**

Number of wires in strand  
Diameter of wires (decimals of an inch)  
Class of core  
Class of steel of which wire is made  
Breaking stress of steel of which wire is made (tons of 2,000 lbs. per square inch).  
Breaking stress of rope (tons of 2,000 lbs.).

(b) A rope Record Book shall be kept at every mine in which the following particulars of all ropes in use on winding gears, which have not been exempted from the provisions of regulation 70 shall be entered in ink, each entry being signed by the person responsible for the examination of the rope:—

**Particulars—**

Name of shaft at which rope is in use  
Compartment in which rope is in use  
Serial number of rope in Register  
Whether rope is new or if not reference to previous record  
Date on which rope is put on  
Dates of shortening and number of feet removed  
Date of recapping  
Dates of turning end for end  
Dates of tests after shortening (if any)  
Breaking stress of wires at these tests  
Dates when rope taken off

**CHAPTER IX—RAISING AND LOWERING OF PERSONS**

**72. Inspection of winding plant before being put into commission.**—No winding plant shall be used for raising and lowering persons unless permission in writing has been obtained from an Inspector. Before giving his permission, the Inspector shall satisfy himself that the provisions of the regulations have been duly and reasonably complied with not only in regard to the winding plant proper but also in regard to the headgear, shaft, runners, cages or other conveyances, landing arrangements and signals; and that the condition of the same is satisfactory.

**73. Winding Plant-Condition.**—The winding engine shall be such that—

(a) When running at various speeds with light and heavy loads it can be readily slowed and stopped and after stopping can be immediately started again in either direction by the engine driver;

(b) it can lift from bottom to top of shaft or winze the maximum unbalanced load on one drum;

This provision shall not apply in cases where other means exist enabling persons employed below to reach the top of such shaft or winze.

(c) Each winding drum when unclutched from the engine can be maintained in a position of rest by means of its own brake or brakes with no more slipping than 1 ft. when the conveyance is loaded to double the maximum permitted weight of persons or mineral whichever is the greater.

In estimating the total weight of persons for the purposes of this regulation and of regulation 85 (6) (b) one hundred and twenty pounds shall be allotted for each person.

(d) There shall be on the drum of the winding engine such flanges or horns and also, if the drum is conical or spiral such other appliances as may be sufficient to prevent the rope from slipping off or coiling unevenly.

**74. Depth Indicator.**—Every winding engine shall, in addition to any marks on the rope, be provided with reliable depth indicators conveniently situated which will clearly and accurately show to the engine driver at his driving seat at all times—

(a) the position of the cage, skip or other means of conveyance; and

(b) at what place in the shaft changes of gradient necessitate reduction in speed;

(c) in the case of shafts exceeding three hundred feet in depth the indicator shall ring a bell in the engine room when the ascending conveyance is 60 feet below the collar of the shaft.

**75. Headgear clearance.**—The headgear shall except in such cases as may be exempted in writing by the Chief Inspector from the requirements of this section be carried without obstruction to the cage or skip-way to such height as to allow a clearance of at least 25 feet in which the cage, skip or other means of conveyance can travel freely above the highest passenger stopping place in case of an overwind.

**76. Overrun space below the lowest landing place.**—The lowest passenger landing place in any shaft exceeding, 1,000 feet in depth other than a sinking shaft shall have at least 25 feet of un-obstructed overrun space below it in which the conveyance can freely travel:

Provided that the Chief Inspector may grant exemption in writing from this regulation under such conditions as he may prescribe.

**77. Construction of cage.**—Every cage or other conveyance used in a vertical or steeply inclined shaft shall be provided with a roof or top cover and with proper safety catches where practicable. Cage entrances shall be provided with doors designed to prevent any portion of the body of any person travelling therein from coming in contact with the sides of the shaft. The doors shall be constructed so that they cannot open outwards, and shall be provided with a latch or other fastening to prevent them opening of themselves.

**78. Exemptions.**—Regulations 72, 73 and 74 shall not apply to sinking or prospecting shafts not exceeding 2[400 feet] in depth.

**79. Number of persons to be carried.**—The maximum number of persons allowed to travel in a cage or other conveyance shall be fixed by the Inspector of Mines and shall be kept posted up at each landing place.

**80. Travelling outside conveyance.**—Every person who travels in a cage or other conveyance shall ride in it and not outside or on the edge. This does not apply to a person who is slowly lowered or raised for the purpose of examining the shaft.

**81. Winding speed.**—At any shaft where the winding plant is not provided with a suitable device for preventing overwinding, the cage or other conveyance shall not be hoisted at a speed exceeding 250 feet per minute when it is within 60 feet of the collar of the shaft.

**82. Travelling in cage with heavy articles exceptions.**—(1) No person shall travel in any cage, skip or bucket with any heavy articles specially drill rods or tools, unless such drill rods or tools are carried in suitable slings or containers. This regulation shall not apply—

- (i) to persons especially authorised to travel with and distribute such articles;
- (ii) to persons in charge of underground works;
- (iii) to sinkers in a sinking shaft; and
- (iv) to workmen employed in repairing a shaft.

(2) No person shall ride in a shaft on a cage, skip or bucket loaded with mineral or material;

Provided that in the case of cages having more than one deck, an Inspector may by order in writing permit persons to ride in the upper compartment when minerals or materials are hoisted.

**83. Permission for conveyance of persons in certain cases.**—In the case of cages or other conveyances which do not conform to the regulations regarding the winding of persons the Superintendent may obtain the special sanctions of the Inspector to permit mining officers and officials, certificated mestris and blasters and sinkers and workmen engaged in repairing the shaft to ride down therein provided all available precautions are taken.

**84. Trial run after stoppage of winding.**—After any stoppage of winding for repairs, or for any other purpose, exceeding two hours duration the cage or other conveyance must be run a complete trip up and down the working portion of the shaft before any person is allowed to ride therein.

**85. Examination of winding plant.**—Where winding of person in accordance with the foregoing regulations is permitted, the following provisions shall have effect, namely:—

(a) One, or more than one, competent person, specially deputed by the Superintendent for the purpose, and whose name or names must be registered by him in a record book termed the Machinery Record Book, shall carefully examine.

<sup>2</sup> The figures and word were substituted for the figures and word "200" by the Ministry of Labour Notification No. S.R.O. 525 dated the 28th February, 1955.

- (1) *Ropes, cages, etc.*—At least once in each day the winding ropes and the attachments thereof to the drums and to the cages, skips or other means of conveyance, the brakes and depth indicators, the cages, skips or other means of conveyances and any safety catches attached thereto and the pulley wheel and all and every external part of the winding arrangements upon the proper working of which the safety of persons depends;
- (2) *Guides, compartments, etc.*—At least once in each week, the guides and the winding compartments generally, the signalling arrangements and the external parts of the winding engine;
- (3) *Engine.*—At least once in each year, the winding engine as to the working condition of the internal parts;
- (4) At least once in each calendar month at intervals not exceeding 45 days, the structure of the winding rope with a view to ascertaining the amount of deterioration thereof. For the purpose of this examination, the rope must be thoroughly cleansed at places to be selected by an engineer who shall note any reduction in the circumference of the rope, the superficial condition of the wires as to where corrosion, fractures and brittleness and all other data necessary for ascertaining the amount, extent and distribution of the rope;
- (5) At least once in each calendar month at intervals not exceeding 45 days, an engineer or competent person, shall examine the connection between the rope and the cage, skip, or other means of conveyance.

A true report of the result of every examination abovementioned shall be recorded without delay in the Machinery Record Book, which must be kept at the mine specially for the purpose and shall be signed by the person who made the inspection. Should, as the result of such examination, any weakness or defect be discovered by which life or limb may be endangered, the defect shall immediately be reported to the Superintendent and remedied; and no person shall be lowered or raised until the defect is made good.

- (6) *Rope test.*—When a new winding rope is not accompanied by a test certificate from the country of manufacture showing the amount of its breaking load and that such amount has been ascertained by actual test, such rope shall not be used unless a portion thereof not less than 10 feet in length has been cut off and tested. The test shall be at the expense of the owner.

(b) *Ratio of breaking load to maximum working load.*—Unless exemption has been obtained from the Chief Inspector in consideration of the great depth of the shaft or of the low winding speed, no winding rope shall be used for the raising and lowering of persons or material when the breaking load at any one point therein has become reduced to less than six times the maximum working load.

The maximum working load shall include the weight of the rope in the shaft when the cage, skip or other means of conveyance is at the lowest working point and the weight of such conveyance and its attachments with the authorised load of persons or material.

(c) *Defective rope not to be used.*—So soon as a rope becomes defective, it shall no longer be used for the transport of persons, unless the damaged part be at the end and be cut off.

(d) *Spliced rope, use of.*—A rope, out of which any defective portion has been cut and the ends again spliced, and ropes which have been previously in use in places beyond the Superintendent's control, shall not be used to raise or lower persons.

(e) *Spare ropes.*—At every mine, at least one spare rope, suitable for use in any shaft in which persons are raised and lowered, shall be kept in reserve.

(f) *Single-linked chain-use of subject to sanction.*—A single linked chain shall not be used for raising or lowering persons or for attaching the rope to the skip or cage, except with the sanction in writing of the Inspector.

(g) *Open hook not to be used for attaching rope to cage.*—No open hook shall be used for attaching the rope to skip, cage or bucket used for raising or lowering persons.

**86. Re-capping of rope.**—At least once in six months the winding rope shall be re-capped, a portion thereof not less than 6 feet in length being at the same time cut off the lower end.

**87. Testing of winding rope.**—At least once in six months or at a shorter interval if the Chief Inspector so decides, the Superintendent of the Mine shall have every winding rope tested for its breaking at a recognised mechanical laboratory and a copy of the certificate showing the result of such test shall be furnished to the Inspector.

**88. Annealing.**—At least once in six months the connection between the rope and the cage, skip or other means of conveyance shall be annealed or replaced.

**89. New Rope particulars.**—When a new winding rope is put on, the particulars thereof specified in regulations 71(a) and (b) and 85(a) and (b) shall be forwarded in writing to the Inspector.

#### CHAPTER X—SIGNALS

**90. Signals provision for.**—At all winding shafts exceeding one hundred feet in depth, arrangements must be provided for transmitting distinct and definite signals from the various levels in use and the shaft top, and between the shaft top, and the engine driver. Where persons are raised and lowered, arrangements shall also be made for return signals.

**91. Every vertical shaft which is in the process of being sunk** shall be provided with two separate means in respect of each engine whereby persons employed in such process can signal effectively from any depth in the shaft to the engine driver.

**92. When driver may start engine.**—The engine driver shall not set the engine in motion without having received a definite signal to do so. Neither the engine driver nor banksman nor signalman shall act on any signal of the correctness of which he has any doubt, unless he believes it may possibly be the signal to stop.

**93. The signalman, the banksman or bellman** shall not permit the cage, skip or bucket to be moved from any landing or filling place in the shaft unless he has received a signal from that place and, if persons are to be raised or lowered, has returned the same.

**94. Who may give signals.**—Only persons specially authorised by the Superintendent for the purpose are allowed to give signals.

**95. Code.**—The following signals must be uniformly adopted in all mines:—

“One”—meaning to stop.

“Two”—meaning to lower.

“Three”—meaning to raise.

Additional signals shall be sanctioned by the Superintendent and must not interfere with the above code.

**96. Notice of signals to be put up.**—Notices explaining the meaning of all permanent signals must be kept posted up in the engine room, at the shaft top and at all signal stations below ground.

**97. Duties of Banksmen, etc.**—(1) Before giving any signal to raise or lower a cage or skip for the conveyance of persons, it shall be the duty of the banksman, signalman, bellman or lander, as the case may be, to ensure that the door or doors, gate or gates of such cage and the door or doors, gate or gates or barriers at the stations or landing platforms are properly shut or where possible the cover of such skip is properly fixed, as the case may be, and the passengers properly placed in the conveyance or all out of the conveyance and clear of it.

(2) The banksman, signalman, bellman or lander shall, save as provided in Regulation 82.

(a) not allow any person to travel in a cage or the same deck of a cage or skip or other means of conveyance which is simultaneously used for the winding of mineral or material;

(b) not allow any person to travel in a cage, skip or other means of conveyance with explosive other than those carried by a blaster or with any drills, tools or other heavy articles;

Provided that the Superintendent may, by an authorisation in writing, permit a person who distributes drills, tools, or other heavy articles to travel in a cage, skip or other conveyance with such drills, tools or other heavy articles.

(c) not allow any person to ascend or descend a shaft or winze on the top of a cage or on the side, bow or rim of any skip, bucket, kibble or any truck or other means of conveyance except as provided in Regulation 80;

(d) acquaint himself with the number of persons authorized by the Inspector to travel at any one time in any cage, compartment of a cage, skip, bucket or other means of conveyance and shall not allow a greater number of persons than is authorised by the Inspector;

(e) not allow any other person to give signals.

CHAPTER XI—TRAVELLING AND LADDER WAYS

**98. Construction of ladders.**—(a) Every ladder used shall be of strong construction, shall be securely placed in any shaft, winze, rise or stope and shall be maintained in good repair.

(b) The spacing of rungs shall be standard.

(c) In order to give a proper foothold the rungs shall be at a safe distance from the wall of a shaft, winze, rise or any timber underneath the ladder.

(d) Every permanent ladder shall project at least three feet above its platform, except where strong hand rails are provided.

**99. Provision of sollars.**—In shafts having an inclination of more than 65° with the horizontal, platforms or sollars must be provided at intervals not exceeding 35 feet in addition to the protections at the level or plat. The manhole in any sollar shall be placed behind the ladder leading up from such sollar whenever the inclination of the shaft exceeds 70° with the horizontal.

Sinking shafts should be provided with ladderways from the bottom of the shaft to the nearest landing stations.

**100. Height of main drive.**—Every main drive shall be maintained at a height of at least 6 feet unless exempted by the Inspector.

**101. Refuge places provision of, on haulage road.**—Every haulage road on which the haulage is worked by mechanical power shall be provided with—

- (1) at least 3 feet clear walking space between the track one side of the level; or
- (2) refuge places at intervals of not more than 100 feet.

**102. Sollars in shaft ladderways.**—(1) In shafts having an inclination exceeding 45° but not exceeding 65° with the horizontal, the sollars shall be placed at intervals of not more than 55 feet measured along the underlie of the shaft.

(2) In a shaft or winze in the course of sinking having an inclination of 35° or more from the horizontal a ladderway shall be provided to within such a distance from the bottom of such shaft or winze as to secure it from damage during blasting, and below this point a chain or rope ladder shall be provided to the bottom of the shaft or winze.

**103. Inclination of ladders.**—No ladder shall have a steeper inclination than 80° with the horizontal except under special circumstances and with the consent in writing of the Inspector. This consent shall not be necessary for the lowest 30 feet of a sinking shaft.

**104. Construction.**—Ladders must be securely fixed to the timbering of the shaft and maintained in proper repair. Except at sollars or resting places, ladders must be made continuous or without perceptible overlapping or break.

**105. Ladders must project at least three feet above the shaft top and above every sollar or landing place in shafts and other travelling ways, or strong holdfasts must be provided at all such places in convenient positions.**

**106. Travelling on foot in shafts, exceptions.**—Travelling on foot in any shafts or shaft compartments except those specially provided and equipped for this purpose, is strictly prohibited except for purposes of inspection or repair.

**107. Railing off ladderways.**—In all shafts the ladderway shall be fenced off sufficiently to prevent any person from inadvertently entering the winding compartment.

**108. Carrying tools, etc., on ladderways.**—Carrying tools or other loose materials up or down a ladderway having an inclination steeper than 45° is prohibited except when absolutely necessary. When tools are carried in a ladderway they must be secured in a sling to the person carrying them.

CHAPTER XII—VENTILATION, LIGHTING, ETC.

**109. Provision of ventilation.**—Sufficient ventilation must be provided to render all working places and travelling roads in a mine under ordinary circumstances fit for working in and as far as possible free from fumes, smoke, dust or noxious gases.

**110. Collar of shaft to be kept clear.**—The vicinity of the collars of downcast shafts shall as far as practicable, be kept clear of cinder heaps, sand, mortar, cement, etc., and no dust shall be created by carelessly handling the above or other material.

**111. When a working place considered unfit, for working.**—A working place shall not be deemed to be fit for working in if a candle will not burn erect when shielded from a draught.

**112. Mechanical aid.**—In all portions of a mine or workings where the natural ventilating current is insufficient suitable mechanical appliances for ventilation shall be provided and operated.

**113. Self-closing doors.**—All doors which are required to be kept shut for purposes of ventilation shall be made self-closing or be operated by an attendant.

**114. Wet drilling.**—All holes drilled in dry ground must, as far as practicable, be kept moist to prevent the atmosphere being charged with dust.

**115. Prohibition of entrance into disused workings.**—Unauthorised entrance into abandoned or disused workings is prohibited and should as far as possible be prevented by boarding or otherwise. Underground works (especially shafts, sumps, winzes and rises) which have been unused for sometime shall before work is started be examined with a light and if the air is foul no work shall be permitted there until the foulness has been removed.

**116. Stationary lights where.**—Stationary lights shall be provided at all stations and other places in shafts which are in regular use; also in all places where pumps or other machinery or appliances are in motion, unless the same are fenced off so as to render it impossible for any one to come in contact with them inadvertently; and at night at all working places on surface.

**117. Lights to be carried.**—Every person in any unilluminated part of a mine, shall carry a light.

**118. Fire prevention.**—In a mine no person shall place or throw or cause or permit to be placed or thrown any naked light such as candle, unenclosed lamp or lighting torch (cheesa stick or a 'kai-piece') on or near any timber, wooden structure or other combustible material where such naked light may cause danger from fire.

In case of blasting with explosives any timber in chutes, in blackrock boxes, stulls, sets, etc., sufficient water shall be applied to the timber before and after blasting so that no fire thereby may be caused.

#### CHAPTER XIII—EXPLOSIVES

**119. Storage of explosives.**—No explosives shall be stored in or about a mine except in accordance with the provisions of rules made under the Indian Explosives Act, 1884.

**120.** Explosives must be in their ordinary manufactured form and of good quality and as far as can be practically known in good condition when distributed for use. Only one kind of detonator shall, except with the permission of the Inspector be used in the same mine. It shall be of sufficient power for every kind of explosive used.

**121.** No fuse or explosives are allowed to be taken into the mine other than the brands specially authorised by the Superintendent.

**122.** Explosives shall not be taken into or kept in a dwelling house; but only in a properly constructed magazine.

**123. Underground magazine.**—Explosives shall not be stored underground in a mine except with the approval in writing of the Chief Inspector and in a magazine or magazines duly licenced in accordance with the provisions of rules made under the Indian Explosives Act, 1884, and in accordance with any provisions additional thereto as may be prescribed by the Chief Inspector of Explosives.

**124.** Every magazine shall be in charge of a competent person acquainted with the nature of explosives whose name shall be entered in a book called "Explosives Storage Book" and who shall be responsible for the proper receipt, storing and distribution of the explosives and shall keep a record of all receipts and deliveries in the said book, which shall be kept in the magazine.

**125. Distribution of explosives.**—All explosive material must be distributed whether above or below ground only by the person or persons appointed for that purpose by the Superintendent.

**126. To whom issued.**—Explosives shall be issued in such a manner as to ensure a good turn over and only to competent persons appointed by an officer of the mine and no unauthorised person shall have explosives in his possession. The names of such competent persons shall be registered in a book to be kept for the purpose.

**127. Record of issue and return.**—The person in charge of a magazine shall keep a correct record of the number of cartridges of explosives and of detonators issued from the magazine to each authorised person and a similar record of explosives returned to the magazine.

**128. Explosive carriers shall give requisitions signed by an officer of the mine giving the number of detonators, length of fuse and the quantity of other explosives required and the working place where they are to be used. Such requisitions shall be preserved by the person in charge of a magazine.**

**129. Explosives issued from the magazine shall be taken directly to the working place and any unused explosives must be returned to the magazine without any delay. Any one finding any explosive must take it at once to the nearest magazine.**

**130. Carrying in suitable cases and the permissible quantity.**—Explosives including fuse when issued from the magazine shall be carried at all times in secure *locked* cases or canisters and no case or canister shall contain more than twenty pounds of explosives, and no single blaster shall be issued with more than thirty pounds.

**131. Quantity restricted to a working place.**—No working place shall be supplied with a greater quantity of explosive material than will probably suffice for the requirements of the shift.

**132. Detonators to be carried separately.**—(1) Detonators must not be carried in the same case or canister with other explosives, but shall be carried in only special cases provided for the purpose.

(2) **Storage for emergency purposes.**—A small quantity of explosives, not exceeding the quantity permitted under Regulation 130 may be kept in special receptacles, securely made of non-inflammable material, which shall be kept locked. In such receptacles detonators shall be kept separate from other explosives by a strong partition. Every such receptacle shall be located in a safe position.

(3) **Person to take charge of unused cartridges.**—When all the holes drilled are not fired at the same time, the explosives for the uncharged holes may be kept in the meantime at a safe distance. They must be placed, in charge of some person responsible for them, where there is no risk of their being exploded or ignited.

**133. Transport of explosives in shifts, etc.**—Explosives shall not be sent down in a bucket, skip or cage, unless there is a distinguishing mark attached to the bucket, skip or cage or they are accompanied by some one who is responsible for them. If taken down by a ladder, each case or canister must be securely fastened to the person carrying it.

**134. Before any mine is abandoned or the workings thereof has been discontinued, the owner, agent or Superintendent shall see that all un-used explosives are either disposed of or removed to the surface from every underground magazine.**

**135. Protection against fire.**—Adequate means of extinguishing fire and ready for immediate use shall be provided close to the entrance of every underground magazine.

**136. No naked light shall be taken into an underground magazine.**

**137. No person shall smoke in a magazine nor shall he carry anything which might cause ignition.**

**138. No scrap or broken portions of cartridges shall be placed in or left lying on the floor of the magazine.**

**139. No person shall either sell, purchase or otherwise attempt to take away any explosive from a mine without the written permission of the Superintendent.**

**140. Possession.**—No person shall secrete or be in possession of explosives in or about a mine except as provided for in these regulations.

**141. Tools for opening.**—No person shall use anything except implements of wood, brass or copper in opening cases containing explosives except where cases are screwed down when an iron screw driver may be used to withdraw the screws but for no other purpose.

**142. Transport in shaft notice.**—Immediately before any person conveys explosives in a shaft by means of machinery he shall give notice to the engine driver, banksman or signalman.

**143. Lowering.**—The engine driver shall gently lower or raise the cage or other conveyance containing explosives.

#### CHAPTER XIV—BLASTING

**144. Who may blast.**—All blasting operations shall be conducted by a blaster holding a blaster's certificate. In cases of emergency, a person who does not hold a blaster's certificate may be authorised to conduct blasting operations by the Superintendent or an underground Agent who shall be responsible that such person is competent.



**145. Preparation of Charges.**—The blaster himself shall prepare the fuse, detonator and primer for use and shall charge every hole but he may be assisted otherwise in the preparation of charges and in firing the shots by one or more competent assistants.

**146. Precautions during preparation of charge.**—During the preparation of charges and the charging of holes, all lights must be kept at a safe distance and smoking shall be strictly prohibited while explosives are being handled.

**147. Fuse capping.**—Every blaster must carry a knife in order to be able to cut a burning fuse, if necessary, and also a pair of pliers for crimping the detonator on to the fuse except when detonators are crimped to the fuse on surface.

**148. Primer cartridge.**—The fuse with its attached detonator shall after being inserted in the primer cartridge, be securely fastened thereto by string or other suitable material so that it cannot be easily withdrawn from the cartridge. The fuse and detonator shall not be inserted in the primer until it is required for immediate use.

**149. Tools.**—In charging or stemming holes the use of any iron or steel tool, scraper or rod is prohibited and no explosive shall be forcibly pressed into a hole of insufficient size.

**150. Tamping.**—A wad of paper or some other suitable material about one inch thick, approved by the Inspector shall be inserted between the charge and the tamping which shall be at least six inches deep. Only sand loosely filled in or soft clay lightly pressed home or water shall be used as tamping for any explosive requiring the use of a detonator.

**151. Number of holes to be fired in a round.**—Not more than eight holes unless the fuses are ignited by more than one person in which case the number may be increased to 12 holes shall be fired in one round in any drive, stope or shaft or unless the charges are fired electrically or unless the special permission of the Inspector has been obtained. No holes shall be charged except those which are to be fired in that round and all those which have been charged shall be fired in one round.

**152. Lighting fuses.**—Blasting gelatine or other high explosives shall not be lighted in order to set fire to fuses, but specially prepared 'Kai-pieces' of such explosives may be used for this purpose.

**153. Warning before firing.**—Before any shots are fired, due warning shall be given in every direction by shouting the fire signal and all approaches to the place where the shots are being fired shall be guarded. The blaster shall be responsible that no person is allowed to remain in or to come into dangerous proximity to the shots.

**154. Precautions to be observed in the case of working places approaching each other.**—Whenever any working place approaches another so closely that any further blasting will reduce the intervening rock to a thickness of six feet or less, such further blasting must be conducted from one working place only at any one time. The Underground Agent in charge shall be responsible that the working parties are duly warned of the near approach of the two places and the blaster in charge of the operations in the one place shall take steps to ensure that no person remains in the other place while shots are being fired.

**155. Counting of shots.**—The number of shots which explode must be counted <sup>3</sup>[except in the electric blasting] by at least two persons one of whom shall be the blaster. Unless both are certain that all charges have exploded, the working place must not be re-entered for at least 30 minutes after the first explosion.

**156. No re-entry until fumes are cleared.**—If all the charges have exploded properly or if they have been fired electrically the working place may be re-entered as soon as it is sufficiently clear of fumes; provided that in the case of electric firing the source of electricity shall have first been disconnected.

**157. Who should enter first.**—After blasting has taken place, the blaster or person in charge of the working place shall be first to re-enter the place and until he has pronounced it to be safe and sufficiently free from fumes, he shall not permit any other person to enter except for the purpose of making it safe.

**158. Search for unexploded explosives after blast.**—In clearing the stuff broken by the blast, loose unexploded cartridges, detonators, etc., must be carefully looked for and, if found, removed at once by the blaster or mestri in charge to a safe place.

**159. Plugging of sockets.**—Before drilling is commenced, all loose rock must be removed from the working faces and if any sockets or portions of holes which have not broken are found they shall be securely plugged by the person in charge of the working place with wooden plugs of which a supply shall be provided.

<sup>3</sup> These words were inserted by the Ministry of Labour Notification No. S.R.O. 525 dated the 28th February, 1955.

**160. Examination of misfired holes.**—In the event of misfire being detected the blaster shall be the first to enter the working place, failing which he shall place a barricade at the entrance or entrances to the said working place and warn either verbally or in writing an Underground Agent, Foreman, Assistant Foreman, Head Mestri or Blaster, in charge of the next shift, who will then be considered to be in charge of the working place.

**161. Misfire to be reblasted.**—As soon as the misfire has been found the Blaster shall refire it without delay, for which purpose he shall insert a fresh primer with detonator and fuse in the hole. If necessary, the tamping may be gently removed with a wooden or copper scraper, or other suitable appliance approved by the Inspector but not the wad of paper or other material referred to in Regulation 150.

**162. Reporting of misfire.**—If a misfire cannot be found or reblasted during the shift, the Blaster shall have the entrance or entrances to the working place barricaded and before leaving the mine shall inform the underground Agent, Foreman, Assistant Foreman, Head Mestri or Blaster in charge of the next shift who shall then be considered to be in charge of the working place. The Blaster shall before leaving the mine, cause a report of every misfire to be entered in a book kept for the purpose at the shaft top or at some other suitable place. It shall be the responsibility of the Underground Agent, Foreman, Assistant Foreman, Head Mestri or Blaster, who has been informed of the misfire or suspected misfire either verbally or in writing to sign this book and later to report in it the action taken.

**163. Drilling not to be permitted until misfire reblasted, etc.**—The Blaster in charge of the next shift shall have the place cleaned up and made secure, but no drilling shall be permitted until the misfire has been located and reblasted, provided that the Blaster, after a thorough examination of the place may permit drilling when he is satisfied that no misfire had occurred.

**164. Deepening old holes.**—(a) No person shall deepen or cause or permit to be deepened a hole in which explosives had once been charged. No person shall withdraw the charge from a hole either before or after blasting.

(b) No person shall extract or attempt to extract explosives from a hole which had been charged.

The mestri in charge of the working place shall be held responsible for the due observance of the provisions of this regulation.

**165. Drilling in the vicinity of sockets precautions.**—The person in charge of the working place shall point out the position and direction of every new hole to be drilled, and shall be responsible that the drillers do not deviate therefrom. The greatest care shall be taken that no new hole shall be bored in such a direction that it can come in dangerous proximity to any old hole or socket in which explosives have previously been charged.

**166. Who may handle explosives.**—Only persons authorised by the Superintendent or holding a blaster's certificate shall open or interfere in any manner with a box containing explosives.

**167. Blaster's responsibilities.**—The holder of a blaster's certificate shall not permit any person working under him to retain any explosive in his possession or to remove it from the mine to the surface and shall be responsible that all reasonable precautions are taken.

**168. Precautions in using electrical firing cables.**—(a) When electrical firing cables or wires are used in the vicinity of power or lighting cables or wires, sufficient precautions shall be taken to prevent the firing cables or wires from coming in contact with the lighting or power cables or wires.

(b) The firing cables or wires shall not be connected to the firing device until immediately before they are required for the firing of charges, and shall be disconnected therefrom immediately after the charges are fired.

(c) The firing cables or wires used for firing charges in one working place shall not be used for firing charges in another working place until all proper precautions have been taken to ensure that the firing cables or wires have not any electrical connection with the leads from the first working place.

(d) A Blaster shall not enter or allow any other person to enter any place where charges have been fired until he has disconnected the firing cables from the blasting battery, or has pulled out and locked the switches of the blasting circuit.

#### CHAPTER XV—MACHINERY

**169. Air receivers, etc.,—charge of.**—All compressed air-receivers and driving-gear must be in the personal charge of competent men appointed by the Chief Engineer. Every air-receiver shall have attached to it a proper safety-valve and an air-gauge and shall be inspected by an Assistant Engineer once a week at least.

**170. Hydraulic testing-record of test.**—(a) Before an air-receiver is cased in or put in commission it shall be subjected to hydraulic test by the Chief Engineer or a competent person appointed by him. The test shall be repeated after any important renewals or repairs and also at least once in three years. A record of every such test shall be entered in books kept for the purpose.

(b) In the test, the hydraulic pressure shall be at least  $1\frac{1}{2}$  times the maximum working pressure permitted.

(c) The working pressure shall be measured as the pressure in excess of that due to the atmosphere.

**171. Safety valves.**—The weight of every safety-valve shall be fixed on the lever so that it cannot be inadvertently shifted so as to increase the pressure.

**172. Fencing of machinery, etc.**—(1) All exposed parts of machinery which are dangerous when in motion must be railed or partitioned off in such a manner that no accident can occur except through carelessness.

(2) Dangerous places, such as elevated platforms, pits, trapholes, etc., shall be fenced off so as effectively to safeguard those persons authorised to work there or be in the vicinity.

**173. Person in charge of machinery.**—(1) Every person in charge of any engine or other appliance, apparatus or machine shall see that it is in proper condition before commencing work and if there is any defect shall remedy the same or report it to a Chief or Assistant Engineer; he must see that no extra weight is added to the safety valves of an air-receiver and that the allowed pressure of air is not exceeded.

(2) During his shift an engine driver shall not allow any other person to handle the engine except in an emergency or with the sanction of the Chief or Assistant Engineer. He shall not leave his post except when absolutely necessary or relieved by a duly appointed substitute.

**174. Repairing and oiling machinery in motion prohibited.**—The repairing, adjusting, cleaning or lubricating of machinery in motion shall not be permitted when there is a risk of personal injury.

**175. Shifting of driving belts.**—Shifting of driving belts while the machinery is in motion is prohibited unless a satisfactory mechanical appliance is provided for the purpose. This shall not apply to the customary shifting of light belts on the coned pulleys of machine tools.

#### CHAPTER XVI—ACCIDENTS, ETC.

**176. Report of Accidents, etc.**—(1) When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, spontaneous heating, outbreak of fire, irruption of water, unexpected or premature collapse of workings, breakage of ropes, chains, or other gear by which men are lowered or raised or accidental overwinding of cages while men are being lowered or raised occurs in or about a mine, the owner, agent or superintendent of the mine shall forthwith inform the nearest Inspector by telephone or telegraph or by special messenger and shall also, within twenty-four hours of the occurrence of such accident, explosion, ignition, outbreak, irruption, collapse of workings, breakage or overwinding send notice thereof in the Form given in the Schedule to the Chief Inspector and to the District Magistrate or to the Sub-Divisional Magistrate. One copy of the notice shall be posted simultaneously on a special Notice Board at a conspicuous place in the office at the mine where it may be inspected by Trade Union officials. The notice shall be kept on the Board for not less than two months from the date of such posting.

(2) When an accident occurs due to electricity the Electric Inspector of Mines shall also be informed forthwith in the aforesaid manner.

**177. When death results from serious injury.**—If death results from any injury already reported as serious under regulation 176, the owner, agent or superintendent shall forthwith inform the inspector by telephone, telegraph or special messenger and shall within twenty-four hours of his being informed of the death, send notice thereof to the Chief Inspector and the District Magistrate or the Sub-Divisional Magistrate.

**178. Place of accident to be left untouched.**—The place where an accident involving the death of, or serious injury to, any person has occurred shall be left untouched after removal of the injured person or persons until it has been examined by an Inspector or until the expiry of forty-eight hours, unless the stoppage of work at that place would seriously impede the work of the rest of the mine, or unless the consent of the Inspector to the resumption of work has been obtained.

**179. Reporting of non-casualty accidents.**—Whether personal injury is caused or not, every accident occurring under the following classification shall be reported without delay to the Inspector:—

- (1) Engine running out of control.
- (2) Fracture of any essential part of winding engine, crank shaft, couplings, bearings, gearing, clutch, drums or drum shaft.
- (3) Fracture of winding rope or of its attachment to skip, cage or drum.
- (4) Fracture of pit-head sheave or axle or bearings of same.
- (5) Failure of emergency brake.
- (6) Failure of safety catch to act when required.
- (7) Failure of device for prevention of overwinding or of detaching hook to act when required.
- (8) Overwinding of cage or skip.
- (9) Bursting of anything containing steam, compressed air or other substance at high pressure.
- (10) Jamming of skip or cage in shaft.
- (11) Derailement of skip or cage by which the winding rope is likely to have been overstrained.
- (12) Skip or cage leaving guides in vertical shafts.
- (13) Failure of depth indicator.
- (14) Extensive caving or subsidence in the ground workings.
- (15) Accidental ignition of explosives.
- (16) Flooding of any considerable portion of the workings or failure of any dam or reservoir used for conserving water or slimes.
- (17) Any fire or any indication or recrudescence of fire or of spontaneous combustion in the mine or of explosion of gas or dust.
- (18) Fracture or failure of any essential part of any machines whereby the safety of person may be endangered.

**180. Report of personal injury.**—Every workman receiving any personal injury any mining operations shall before leaving the mine report the same to one of the mining officers or the banksman at the top of the shaft or to his immediate superior; and any person to whom such report is made shall as soon as possible communicate the same to the Superintendent or Head of the Department.

#### CHAPTER XVII—MINE PLANS

**181. General plan of Mining Rights.**—A general plan, made by a competent surveyor of the land which is in the possession of the owner for mining purposes or over which he holds any mining rights to a distance of 600 feet from any point where mining operations are or have been carried on but not beyond the limits of such land must be kept at the mine and be made up at least every six months.

**182. Surface Plan.**—The general plan must show the Government survey marks (if any), the boundaries of the land, the outcrops as well as the actual strike and dip of the reefs or other mineral deposits so far as known, all open surface workings, shaft openings, bore-holes, water-furrows, reservoirs, tailings-sites, public roads and railways and the principal buildings and sites of mining and metallurgical plant. It must also show the geographical meridian.

**183. Underground Plans and Sections.**—Besides the general plan referred to above, the Superintendent must keep in the office of the mine an underground working plan and section or sections showing clearly all the workings surveyed upto within four months from date.

**184. Sections of workings.**—The underground plans and sections must in particular show clearly all shafts, bore-holes, drives, crosscuts, winzes, rises, excavations (stopped ground) and any tunnels and passages connected therewith and the position of all permanent winding gear, pumps, ventilating fans, brattices and doors for regulating ventilation and all underground bench marks and stations of the underground survey and in addition thereto the vertical depth of bore-holes, the depth at which the mineral deposits have been intersected, the general strike of the reefs or mineral deposits with their dips at different points and the dislocations of the strata and other geological features.

**185. Scale of plans.**—All underground plans must be on the scale of 30 or 60 feet to one inch.

**186. Bench marks.**—All bench marks or stations of the underground surveys must be properly marked with holes and plugs and care must be taken to preserve them in view of subsequent surveys.

**187. Plotting of surveys.**—The plottings of every survey must be made from a line or lines representing on the plan the true geographical meridian.

**188. Plans and Sections to be sent to Chief Inspector before abandonment of mine.**—In case of a mine or any considerable part of it being intentionally abandoned, the general and underground plans and underground sections must first be completed up-to-date and the same or exact copies thereof must be sent to the Chief Inspector within two months of such abandonment.

**189. Survey of underground workings.**—All underground workings must, when it is possible, first be surveyed before being allowed to become inaccessible.

**190. Withholding plans or concealing workings an offence.**—Any owner, agent or Superintendent or other person engaged in mining operations who wilfully withhold any portion of a mine plan or conceals any part of the workings or knowingly allows the mine plans to be incorrect, shall be guilty of a breach of these regulations.

**191. Copies of plans to be deposited with Chief Inspector.**—A true copy on mounted paper or tracing cloth of the general plan and of every underground plan or section referred to in Regulations 181 and 183 shall be deposited with the Inspector and the said copies shall be brought up-to-date *every six months* by the Superintendent.

For this purpose the said copies may be obtained by the Superintendent from the Inspector any time subsequent to the *30th June and 31st December* and shall be returned to the Inspector *in the following month*.

#### CHAPTER XVIII—GOVERNMENT RETURNS AND NOTICES

**192. Monthly returns.**—The Superintendent of a mine shall furnish monthly to the Inspector a statement showing the quantities of ore obtained and treated and the quantity of metal or other finished products obtained and other returns and statistics in such form and at such time as may be asked for.

**193. Annual returns.**—The owner or Superintendent of a mine or works shall furnish annually returns to the Chief Inspector in such form as may be asked for respecting such data as may be reasonably required.

**194. Notice of commencement or discontinuance of mining.**—Where any working is commenced for the purpose of opening a mine or where the working of a mine is temporarily or permanently discontinued or abandoned or where the working of a mine is recommenced after any such discontinuance or abandonment, the owner or his Agent or Superintendent shall immediately give written notice thereof to the Chief Inspector.

**195. Particulars of owner, etc., to be supplied to Chief Inspector.**—The owner or his Agent or Superintendent shall, without delay, furnish the Chief Inspector with the following information:

- (1) Name of mine,
- (2) Name and address of Proprietor,
- (3) Name and address of Agent or Superintendent and shall likewise give notice of any change in their names or addresses within three days of such change.

**196. Responsibility of owner on abandonment for surface protection, etc.**—In case of the abandonment of a mine, the owner at the time of such abandonment shall continue to be responsible for the carrying out of the provisions regarding the protection of the surface under Chapter II, the furnishing of plans under Chapter XVII and the sending in of returns under Chapter XVIII until such Regulations have been complied with.

**197. Underground workings approaching railway.**—Notice shall be given to the Chief Inspector, if any working approaches to within 500 feet of a railway in any direction.

**198. Inspector to take samples.**—An Inspector is entitled to take or cause to be taken such samples of ore, quartz or other minerals from any reefs, beds or deposits or from any intermediate or final products extracted, obtained or produced in the course of any mining operations, as he in the execution of his duty may think fit but if they be of more than two pounds weight, or contain more than five grains of gold, or be taken more than once in three months, the Government shall pay for the same at a fair valuation.

#### CHAPTER XIX—MISCELLANEOUS

**199. Interference with or obstruction of persons in the discharge of their duties under the Rules be reported to a Mining Officer.**—No person shall offer or render any service or use any threat to any other person with a view to preventing him from complying with these regulations or from performing his duties faithfully. If any person who receives any such offer or threat, fails to inform at once an officer of the mine, he shall be guilty of a breach of these regulations.

**200. Periodical examination of working places, etc.—**(1) The Superintendent or other Mining Officer <sup>4</sup>[or Senior Foreman] acting under his instructions, shall at least once in three days while the men are at work, visit and examine every working place in the mine and all machinery and other mining operations of every description below ground or on the surface, and shall see that safety in every respect is ensured.

(2) He shall as soon as practicable report the occurrence of the breach of any provision of these regulations to the Inspector or take such other disciplinary steps as the Inspector may have directed or approved of. Particulars of every such breach and the disciplinary steps taken shall be entered in a register which shall be open for inspection at all reasonable times to an Inspector.

**201. No admittance to a mine without previous consent.**—Except under the provisions of these regulations, no person shall enter a mine who has not previously obtained the consent of the Superintendent or his representative.

**202. Sleeping underground prohibited.**—No person shall sleep or be permitted to sleep underground.

**203. Unauthorised entry into shaft, etc., prohibited.**—(1) No unauthorised person shall enter any shaft, building, shed or enclosure in which machinery or receivers are erected or mining operations are carried on, and notices to this effect shall be posted at all entrances to such places.

(2) No unauthorised person shall interfere with any machinery or apparatus provided for or used in the working of the mine.

**204. Workmen prohibited from wandering about.**—No workman shall, except in cases of emergency, go to any part of the mine except where it is necessary for him to go in the course of or when coming to or from his work.

**205. Instruction of workmen in regulations.**—Where any workman is unable to read the regulations, the person in charge shall see that such workman is made acquainted with the regulations concerning him or appropriate to his particular occupation and duties.

**206. Attestation of reports.**—In all cases where any person is required by these regulations to make any report he shall sign his name to it. If he is unable to write, he shall be present when his report is written and shall have it read over to him and shall attach his mark to such report in token of this having been done. The name of the person writing the report shall also be entered at the end of the report together with a statement of its having been read over to the person on whose behalf it is written.

**207. Observance of Regulations pertaining to posts.**—Where the duties of more than one post are entrusted to the same person that person shall be bound by and observe the regulations attached to each such post.

**208. Deputing of work.**—No person shall depute any one to do his work without the sanction of his immediate superior.

**209. Removal of Protective barriers, etc.**—No person shall wilfully damage or without proper authority remove or render useless any fence, manhole, place of refuge, casing, guide, signal or means of signalling, brake, indicator or other appliance or thing which has been provided for the purpose of carrying out these regulations or for the safety of workmen or otherwise for the purpose of properly carrying on mining operations and no person shall alter, remove or in any way render useless any arrangement in the mine provided for the above purposes without the consent of the Superintendent.

**210. Causing destruction, theft, etc., offence.**—Any person employed in or about the mine who shall by any act or omission wilfully or negligently do anything likely to endanger life or shall wilfully or in a careless or thoughtless manner expose himself to danger shall be deemed to be guilty of a breach of these regulations.

**211. Safety regulations, etc., to be complied with.**—No person shall refuse or neglect to obey any orders issued with a view to the safety or the convenience or proper discipline of the mine not being inconsistent with these regulations by any person under whose orders he is placed nor shall interfere with, impede or obstruct any person in the discharge of his duties or interfere with or obstruct the working of the mine.

**212. Workmen to strictly adhere to Regulations.**—All workmen shall strictly adhere to these regulations and to any directions issued by the Superintendent with a view to their safety or convenience or the proper discipline of the mine not being inconsistent with these regulations contained in the notices posted in or about the mine for the guidance of the workmen.

<sup>4</sup> These words were inserted by the Ministry of Labour Notification No. S.R.O. 525 dated the 28th February, 1955.

**213. Report of infringement of regulations.**—Any person who may observe or be aware of any neglect or infringement of these regulations shall report the case to his immediate superior or to the Superintendent or an Underground Agent or other Mining Officer or (if the person reporting the same is a workman) to an Underground Foreman or Assistant Foreman so that immediate means may be taken to rectify it and to prosecute the offender.

**214. Abetment of breaches of regulations or failure to report them an offence.**—Any person who shall knowingly permit any person over whom he exercises authority to commit or shall otherwise abet a breach of these regulations or shall observe or be aware of a breach thereof without reporting the same as aforesaid shall himself be deemed to commit a breach thereof.

**215. Persons guilty of wilful or negligent commission or omissions deemed to commit breach of regulations.**—Every person employed in mining operations (other than the owner, Agent or Superintendent) who is wilfully or negligently guilty of any act or omission which in the case of an owner, Agent or Superintendent would be a breach of these regulations, shall be deemed to commit a breach of these regulations.

**216. Suspension or discharge of workmen for breach of Regulations.**—All workmen who neglect to observe any of the provisions of these Regulations may be suspended, and ordered out of the mine by the Superintendent or other Mining Officer.

**217. Competent persons only to be employed.**—No person shall be selected or allowed to perform or shall perform any duty in connection with any mining operations unless he is fully competent and qualified to carry out the work allotted to him.

**218. Safety and discipline of workmen.**—The owner, Agent or Superintendent shall provide for the safety and proper discipline of the men employed above and below ground and appoint such persons as may be necessary for carrying out the provisions of these regulations.

**219. Power to postpone application or operation of Regulations.**—Whenever the circumstances in any mine or part of a mine are such as to render improper the application or as the case may be, the continued operation of any provision of these regulations in such mine or part, the Chief Inspector may, under conditions to be specified by him in writing in this behalf, postpone such application or continued operation in such mine or part.]

#### SCHEDULE—(See Regulation 176)

##### NOTICE OF ACCIDENT

FROM  
TO

THE CHIEF INSPECTOR OF MINES, DHANBAD P. O., MANBHUM DISTRICT

Through the District Magistrate of  
Sub-Divisional

*Dated*

SIR

I have to furnish the following particulars of

a fatal accident  
a serious accident  
an accidental explosion or ignition  
an outbreak of fire  
an irruption of water  
a premature of collapse of workings  
breakages of ropes chains or other  
gear by which men are lowered or  
raised  
an overwinding of cages while men  
are being lowered or raised.

which has occurred at the Mine.

1. Situation of the mine (Village, Station, District, Province).
2. Mineral worked.
3. Name and postal address of owner.

\* This Regulation was substituted by the Ministry of Labour Notification No. S.R.O. 525 dated the 28th February, 1955.

- |                             |         |             |
|-----------------------------|---------|-------------|
| 4. Name and sex of persons. | Age.    | Occupation. |
| Killed                      | Injured |             |
5. Date and hour of the occurrence.
  6. Place of occurrence.
  7. Cause and description.
  8. Classification of accident [see (5) below].
  9. Nature of injury and, if fatal, cause of death.

Yours faithfully,  
Owner/Agent/Superintendent.

#### NOTES AND INSTRUCTIONS

(1) *How to submit the Notice.*—When any accident occurs in or about a mine, causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or Superintendent of the mine shall forthwith inform the Inspector of the Circle in which the mine is situated by telephone or telegraph and shall also give notice of the occurrence of such accident, explosion, ignition, outbreak or irruption by despatching this form, duly filled in within 24 hours of the occurrence, through the Magistrate of the District to the Chief Inspector of Mines.

(2) Under Section 33 of the Indian Electricity Act<sup>a</sup> notices of accidents resulting or likely to have resulted in loss of life or personal injury are required to be submitted.

(3) *Explanation of serious injury.*—Means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days.

(4) *Notice of subsequent death of injured person.*—When any person dies from the result of an injury already reported as serious, the owner, agent or Superintendent of the mine shall send notice within 24 hours of his being informed of the death to the Chief Inspector of Mines through the District Magistrate

(5) The following terms are to be used at 8 (above) "Classification of accident":—

1. Explosion, ignition and outbreak of fire.
2. Falls of roof.
3. Falls of side.
4. Premature collapse of workings.
5. In shaft (overwinding).
6. In shafts (ropes and chains breaking).
7. In shafts (whilst ascending or descending by machinery).
8. In shafts (falling down shaft).
9. In shafts (things falling down shaft).
10. In shafts (miscellaneous).
11. Suffocation by gases.
12. By explosives.
13. Irruptions of water.
14. Haulage.
15. By underground machinery.
16. Sundries underground.
17. By surface machinery.
18. Boilers or pipes bursting.
19. On surface railways and tramways belonging to the mine.
20. By electricity.
21. Miscellaneous on surface.
22. Miscellaneous belowground (Rock bursts).

<sup>a</sup> For Section 33 of the Indian Electricity Act, see page 131 ante.



# INDIAN COAL MINES REGULATIONS, 1926

## Arrangement of Paragraphs

### PREAMBLE AND DEFINITIONS

Chapter I—Returns, Notices and Records.

Chapter II—Plans.

Chapter III—Mine Officials.

Chapter IV—Certificates of Competency, Permits and Authorisations.

Chapter V—Shafts and Outlets.

Chapter VI—Raising and Lowering Persons or Materials.

Chapter VII—Roads and Working Places.

Chapter VII-A—Special Precautions against spontaneous combustion and underground fires.

Chapter VIII—Haulage.

Chapter IX—Explosives.

Chapter X—Ventilation and Lighting.

Chapter XI—Fencings and Gates.

Chapter XII—Miscellaneous.

Schedule—Forms.

# INDIAN COAL MINES REGULATIONS, 1926<sup>1</sup>

## Regulations for Coal Mines

1. (1) These Regulations may be called the Indian Coal Mines Regulations, 1926.
- (2) They extend to the whole of India except the State of Jammu and Kashmir.
- (3) They shall apply only in respect of coal mines.
2. In these Regulations, unless there is anything repugnant in the subject or context—
  - (a) "the Act" means the Indian Mines Act, 1923;
  - (b) "approved safety lamp", "approved flame safety lamp" and "approved electric torch" mean, respectively, a safety lamp, a flame safety lamp or an electric torch manufactured by such firm and of such type as the Chief Inspector may from time to time specify by notification in the *Gazette of India*, and includes any other safety lamp or electric torch approved by the Chief Inspector by an order in writing;
  - (c) "the District Magistrate", in relation to any mine, means the District Magistrate of the district in which the mine is situated:

Provided that in the case of a mine which is situated partly in one district and partly in another, the District Magistrate for the purposes of these regulations shall be the District Magistrate authorised in this behalf by the Central Government;

- (d) "Form" means a Form as set out in Schedule I;
- (e) "permitted explosive" means an explosive permitted by the Chief Inspector under such definition and subject to such conditions as he may from time to time lay down by notification in the *Gazette of India*;
- (f) "ventilating district" means such part of a mine as has an independent intake airway commencing from a main intake airway, and an independent return airway terminating at a main return airway.

### CHAPTER I—RETURNS, NOTICES AND RECORDS

3. (1) On or before the tenth day of every month, the owner, agent or manager of every mine shall send to the Chief Inspector correct returns in Forms I, I-A and I-B relating to the preceding calendar month.

(2) On or before the twenty-first day of January in each year the owner, agent or manager of every mine shall forward to the District Magistrate and to the Chief Inspector annual returns in respect of the preceding year in Forms II, III, IV, V, VI, VII and VIII.

(3) If any mine is abandoned or the working of any mine has been discontinued over a period exceeding three months or if a change occurs in the ownership of any mine, the

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<sup>1</sup> These Regulations were published under Government of India, Department of Labour Notification No. M-1055(1) dated the 7th September, 1926.

returns required by sub-regulation (2) shall be submitted within one month from the date of abandonment or change of ownership or within four months from the date of discontinuance:

Provided that the Chief Inspector may by order in writing extend the period for the submission of such returns up to any date not later than the twenty-first day of January in the year following that to which they relate:

Provided further that nothing in this sub-regulation shall be deemed to authorise the submission of any return later than the twenty-first day of January in the year following that to which it relates.

(4) On or before the first day of March in each year the owner, agent or manager of every mine shall forward to the Chief Inspector in duplicate a return in Form II-A, duly filled in. The figures given in the return shall relate to that day on which the number of persons attending work was highest during such week in February of that year as is selected in advance by the Chief Inspector.

4. The notice required by section 14 of the Act shall be furnished in duplicate, and shall specify the name and situation of the mine, the names and addresses of the owner and the manager, and, in the case of a new mine, the date on which it was opened. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

5. When a mine or seam has been abandoned, or the working thereof has been discontinued over a period exceeding two months, the owner of the mine shall, within one month after the abandonment or within seven days after the expiry of the said period, as the case may be, send to the Chief Inspector notice in writing specifying the name and situation of the mine, the name and address of the owner, and the date and cause of the abandonment or discontinuance.

6. When a mine or seam is re-opened after abandonment or discontinuance, the owner, agent or manager shall, within one month after the date of the re-opening, send to the District Magistrate notice in writing in duplicate specifying the name and situation of the mine, the names and addresses of the owner and the manager, and the date of the re-opening. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

7. When a change occurs in the name of, or in the ownership of, a mine, notice in writing of the change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the change.

8. When any new appointment is made of an agent or manager of a mine or any change of address of any agent or manager occurs, notice of the appointment or change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the appointment or change.

9. When the ownership of a mine is transferred, the previous owner or his agent or manager shall make over to the new owner all plans, books and other records required to be kept under the Act, and all correspondence relevant to the working of the mine with the Department of Mines and other Government departments.

10. If the owner, agent or manager of any mine intends to conduct or extend any mining operations under his control at or to any point within fifty yards of any railways subject to the provisions of the Indian Railways Act, 1890, or of any public work in respect of which this regulation is applicable by reason of any general or special order of the Central Government under clause (u) of section 29 of the Act, he shall not less than sixty days before commencing such operations, give notice of his intention to the Chief Inspector and also, in the case of a railway, to the Railway Administration concerned, or, in the case of any such public work as aforesaid, to such authority as the Central Government may by general or special order direct.

10-A. *If in any mine it is intended to conduct or extend the extraction or reduction of pillars at or to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, the owner, agent or manager of the mine shall, not less than sixty days before commencing such operations, give notice of such intention to the Chief Inspector and also to the Railway Administration concerned.*

11. If the operations in respect of which notice is given under Regulation 10 or 10-A are not commenced within twelve months from the expiry of the period of sixty days therein referred to, the notice shall be held to have lapsed and the provisions of that regulation shall apply as if no such notice had been given.

12. The notice to be given under regulation 10 or 10-A shall specify the position of the workings of the mine in relation to the railway or public work in question, the manner in which it is proposed to carry out the intended new operations and the limits to which

it is proposed to carry the said operations, and shall include a plan showing the existing and the intended mining operations in so far as they affect the railway or public work in question.

\*[13 (1). When there occurs in or about a mine an accident causing loss of life or serious bodily injury, or an accidental explosion, ignition, spontaneous heating, outbreak of fire or irruption of water or an accidental breakage of ropes, chains or other gear by which men are lowered or raised, or an accidental overwinding of cages, while men are being lowered or raised, or a premature collapse of any part of the workings, the owner, agent or manager of the mine shall forthwith inform the nearest Inspector about the occurrence by telephone, express telegram or special messenger and shall also, within 24 hours of any such occurrence, send notice thereof in Form IX to the District Magistrate/\*Collector or the Sub-Divisional Magistrate/\*Revenue Divisional Officer, as the case may be and to the Chief Inspector and shall simultaneously post one copy of the notice on a special notice board at a conspicuous place in the office at the mine and shall ensure that the notice is kept on the board in a legible condition for not less than two months from the date of such posting.

(2) When an accident causing loss of life or serious bodily injury occurs in or about a mine in connection with the generation, transmission, supply or use of electrical energy, the owner, agent or manager of the mine shall also forthwith inform the nearest Electric Inspector by telephone, express telegram or special messenger.

(3) When an accident occurring in or about a mine results in loss of life or serious bodily injury, the owner, agent or manager of the mine shall also give notice of the occurrence in Form IX to the Coal Mines Labour Welfare Commissioner, Dhanbad.

13A. When any accident causing loss of life occurs in a mine, the place of accident shall not be disturbed or altered before the arrival or without the consent of an Inspector unless such disturbance or alteration is unavoidable to prevent further accidents, to remove bodies, or to rescue persons from danger, or unless discontinuance of work at the place would seriously impede the working of the mine.

Provided that if from any cause an Inspector fails to make an inspection within three full days of the date of submission of the notice, work may be resumed at the place of accident.

14. If death results from any injury already reported as serious under Regulation 13, the owner, agent or manager shall forthwith inform the Inspector about the death by telephone, express telegram or special messenger and shall also, within twenty-four hours of such death, give notice thereof to the District Magistrate/\*Collector or the Sub-Divisional Magistrate/\*Revenue Divisional Officer, as the case may be, the Chief Inspector, and to the Coal Mines Labour Welfare Commissioner, Dhanbad.

14A. Where any person employed in a mine contracts any disease notified by the Central Government in the Official Gazette under section 25 of the Act, the owner, agent or manager of the mine shall, within 14 days of his being informed of the disease, send notice thereof in Form X to the District Magistrate/\*Collector or the Sub-Divisional Magistrate/\*Revenue Divisional Officer, as the case may be, and to the Chief Inspector.]

## CHAPTER II—PLANS

15. (1) All plans prepared in accordance with the provisions of this Chapter shall—

- (a) bear the name of the mine and of the owner;
- (b) show the scale together with the magnetic meridian and the date of the latter;
- (c) be properly inked on durable paper, or on tracing cloth; and
- (d) be on a scale of 100 feet to the inch:

Provided that where plans have been prepared on any other scale before the passing of these regulations, the Chief Inspector may on application by the owner, agent or manager permit such plans to be maintained on that scale.

(2) The owner, agent or manager of every mine shall keep a plan of the workings of the mine. The position of the workings at the time of the last survey shall be shown by a dotted line drawn through the ends of the workings; such dotted line shall be marked with the date of the last survey. The plan shall also show all shaft and incline openings, all goaves, the boundaries of the underground leasehold, where possible, and all important

\* Old Regulations 13 and 14 were omitted and Regulations 13, 13A, 14 and 14A were inserted by the Ministry of Labour Notification No. S.R.O. 1858 dated the 23rd August, 1955.

\* In the State of Madras only.

features within the boundaries, such as railways, roads, rivers, streams, tanks, buildings and reservoirs which overlie any part of the workings or any point within 600 feet of any part of the workings measured on the horizontal plane; also the general direction and rate of dip of the strata, the depth of every shaft, a section of the seam being worked and the position of all faults and dykes with the amount and direction of their throw. There shall be a separate plan of the workings of each seam, and of each separate section of each seam.

(3) The owner, agent or manager of every mine shall also keep a separate tracing of a surface plan showing all surface features referred to in sub-regulation (2), and in addition all buildings and erections on the surface and within the boundaries which overlie the workings of the mine or any point within 600 feet of the workings measured on the horizontal plane.

(3-A) (i) The owner, agent or manager of every mine shall also keep a separate plan showing the system of ventilation in the mine, and, in particular, the general direction of the air-currents, the points where the quantity of air is measured and the principal devices for the regulation and distribution of the air. So far as practicable the intake airways shall be coloured blue and the return airways red.

(ii) The positions of any underground ambulance stations and telephones shall be indicated on the plan.

(iii) The code of signs set out in Schedule II shall be utilised in plans made under this sub-regulation.

(4) The plans required by this regulation shall be kept in the office at the mine. They shall be accurate and shall be maintained up to a date within six months; provided that where any mine or seam is abandoned or the working thereof has been discontinued the plan shall, before such abandonment or immediately after such discontinuance, be brought up to date to the time of abandonment or discontinuance, as the case may be, unless such abandonment or discontinuance has been caused by circumstances beyond the control of the owner, agent or manager, in which case the fact that the plan is not up to date shall be recorded on it.

(5) Nothing in this regulation shall be deemed to apply to any mine in which the workings do not extend under the superjacent ground or to any mine in which excavation is being made for prospecting purposes only:

Provided that the Chief Inspector may direct that the regulation shall apply to any such mine to such extent as he may think fit.

16. The owner, agent or manager of every mine shall at any time on the request of the Chief Inspector or of any Inspector produce to him at the office at the mine such plans and sections, and also, on the like request, mark on such plans and sections the then state of the workings of the mine; and the Chief Inspector or Inspector shall be entitled to examine the plans and the sections and for official purposes to make or have a copy made of any part thereof respectively.

17. Where any mine or seam is abandoned, or the working thereof has been discontinued over a period exceeding one year, the person who was the owner of the mine at the time of the abandonment or discontinuance, shall, within three months after the abandonment or within fifteen months after the discontinuance of working, as the case may be, send to the Chief Inspector accurate plans and sections of the workings of the mine or seam up to the time of the abandonment or discontinuance, showing the pillars of coal remaining unworked and all other features required in compliance with these regulations, or a true and accurate copy of the same:

Provided that if a change of ownership occurs after the abandonment or discontinuance and before the expiry of the three months or the fifteen months aforesaid, as the case may be, such plans and sections shall be sent forthwith.

18. After the expiry of ten years from the date of abandonment or discontinuance of working in any mine or seam or, where the consent of the owner of the mine for the time being has been obtained, prior to the expiry of the said period, the Chief Inspector may, on such conditions as he thinks fit to impose, permit any person having an interest in the said mine or seam to inspect the plan or section of such mine or seam sent to him in accordance with the provisions of regulation 17; and he may further, on such condition as he thinks fit to impose, supply to any such person copies of the like plan or section.

19. The Central Government may direct that after such date and in such areas as he may appoint in this behalf the plans required to be kept under regulation 15 or to be sent under regulation 17 shall be prepared by or under the supervision of a surveyor who has been granted a surveyor's certificate under these regulations.

## CHAPTER III—MINE OFFICIALS

20. For the purposes of this chapter every system of underground workings interconnected in such a manner that communication is practicable from any one part of the system to any other part by means of underground channels shall be deemed to constitute one mine. If access from one system of underground workings to another such system is not so practicable each such system shall be deemed to constitute a separate mine.

21. A duly qualified manager may be permitted by order in writing of the Chief Inspector to manage more than one mine, if the Chief Inspector is of opinion that the mines supervised by him are sufficiently near to one another to permit of effective supervision being exercised, and that an adequate subordinate supervising staff is maintained at each mine. The Chief Inspector may at any time, by order in writing, revoke any such permission and such order shall be final.

22. Save as provided by Regulation 21 no person shall act as manager of more than one mine.

22-A. *No person shall be employed in a mine as manager unless he is paid by, and is directly answerable to, the owner of the mine.*

23. Save as hereinafter provided in Regulation 24—

- (a) no person shall act as manager of a mine, the average monthly output of which exceeds 2,500 tons, unless he holds a first class manager's certificate granted under these regulations;
- (b) no person shall act as manager of a mine, the average monthly output of which exceeds 600 tons, unless he holds a first or second class manager's certificate granted under these regulations; and
- (c) no person shall act as the manager of a mine, the average monthly output of which does not exceed 600 tons, unless he holds a first or second class manager's certificate or a manager's permit granted under these regulations;

Provided that the Chief Inspector may, by order in writing, direct that in the case of any such mine as is referred to in clause (b) the manager thereof shall be the holder of a first class manager's certificate granted under these regulations, and that in the case of any such mine as is referred to in clause (c) the manager thereof shall be the holder of a first or second class manager's certificate granted under these regulations;

Provided further that an appeal from any order passed by the Chief Inspector under the foregoing proviso shall lie to the Mining Board constituted under section 10 of the Act or if no Mining Board has been so constituted for the part of British India in which the mine or part of the mine is situated, to the Central Government and the order of the Mining Board or of the Central Government thereon shall be final.

24. (1) The Chief Inspector may, by order in writing, authorise any person, whom he may consider competent, to act as manager of any mine or mines for a specified period, notwithstanding that such person does not possess the qualifications prescribed in that behalf by regulation 23 and may by a like order revoke any such authority at any time and such order shall be final.

(2) In every mine personal supervision shall be exercised by the manager.

(3) Where by reason of absence or for any other reason the manager is unable to exercise personal supervision the owner, agent or manager shall authorise in writing a person whom he considers competent to act as manager of the mine:

Provided that:—

- (a) such person holds a manager's certificate or a sirdar's certificate;
- (b) no such authorisation shall have effect for a period in excess of one month except with the previous consent of the Chief Inspector nor without the like consent shall a second authorisation be made to take effect upon the expiry of the first;
- (c) the owner, agent or manager, as the case may be, shall send to the Chief Inspector with the least possible delay, a written notice intimating that such an authorisation has been made, and stating the reason for the authorisation, the qualifications and experience of the person authorised and the dates of the commencement and ending of the authorisation; and
- (d) the Chief Inspector may by order in writing revoke any authority so granted, and such order shall be final.

24-A. (1) *The manager of every mine shall ensure that a sufficient supply of proper materials and appliances for the purpose of carrying out the provisions of the Act and of*

*the regulations, rules and bye-laws made thereunder and ensuring the safety of the mine and the persons employed therein, is always provided at the mine, and, if he be not the owner or agent of the mine he shall report in writing to the owner or agent of the mine when anything is required for the aforesaid purposes that is not within the scope of his authority to order.*

(2) A copy of every report made under sub-regulation (1) shall be kept in the office at the mine.

25. (1) The manager of every mine shall appoint in writing such number of competent persons as will be sufficient to secure a thorough supervision of all the operations in the mine and the enforcement of the requirements of the Act and of the regulations, rules and bye-laws made thereunder. He shall assign to every such person his particular duties, shall on his appointment make over to him a copy of the regulations, rules and bye-laws which affect him and shall take all possible steps to ensure that every such person understands, carries out and enforces the provisions therein contained. No person shall be appointed under this regulation unless he is paid by the owner of the mine and is directly answerable to the owner or the manager of the mine.

(2) Copies of all appointments made under sub-regulation (1) and all authorisations made under these regulations shall be entered in a bound paged book kept in the office at the mine.

(3) Every manager shall on appointment satisfy himself that all persons already appointed under sub-regulation (1) or authorised under these regulations to discharge any functions are competent to perform the duties assigned to them.

26. Every person employed underground in a mine as an official subordinate to the manager and superior to the underground sirdar shall hold either a manager's certificate or sirdar's certificate granted under these regulations.

27. With effect from such date and in such areas as the Central Government may notify in the *Gazette of India* no person shall be employed as a surveyor in a mine unless he holds a surveyor's certificate granted under these regulations.

28. No person shall be employed as a winding engine man unless he has attained the age of 21 years; and the manager or some competent person appointed by the manager for the purpose shall, before appointing any such person, satisfy himself that such person is competent to perform the duties assigned to him.

#### CHAPTER IV—CERTIFICATES OF COMPETENCY, PERMITS AND AUTHORISATIONS

29. (1) There shall be constituted a Board of Examiners for the purposes of these regulations, which shall consist of the Chief Inspector, who shall be the Chairman of the Board, and of three Members possessing technical qualifications fitting them to serve on the Board, who shall be appointed by the Central Government for a term of three years:

Provided that on the expiry of any term for which he has been appointed, any Member shall be eligible for re-appointment.

(2) A Member of the Board of Examiners (other than the Chairman) shall receive such remuneration as the Central Government may fix.

30. (1) Certificates under these regulations shall be granted by the Board of Examiners, and all decisions of the Board regarding the grant of such certificates shall be final.

(2) Certificates granted by the Board shall be valid throughout India, and shall be of the following kinds:—

- (a) first and second class certificates of competency to manage a mine (in these regulations referred to as managers' certificates);
- (b) certificates of competency to survey the workings of a mine (in these regulations referred to as surveyors' certificates);
- (c) certificates of competency to make the inspection hereinafter required by regulation 70 (in these regulations referred to as sirdars' certificates);
- (d) certificates of competency to fire shots in a mine (in these regulations referred to as shot-firers' certificates).

31. (1) Certificates shall be granted to candidates after such examination and in such form as the Board of Examiners may prescribe.

(2) The examinations shall be held at such times and at such centres as may be fixed by the Board and shall be conducted by local examiners who shall be appointed by the Board.

(3) The local examiners so appointed shall be subject to the orders of the Board in respect of all matters relative to the conduct of the examinations, and shall receive such remuneration as the Board, with the sanction of the Central Government, may fix.

(4) The Board may make rules as to the conduct of the examinations; and shall, so far as may be practicable, provide that the standard of knowledge requisite for the grant of certificates of any particular class shall be uniform throughout India.

(5) Every rule made by the Board under this regulation shall be published in the *Gazette of India* and no such rule shall have effect until six months from the date on which it was first so published.

32. Full information regarding the date and place of each examination for managers' and surveyors' certificates shall be published under the orders of the Board of Examiners in such publications and at such intervals as the Board may direct, during a period of not less than three months prior to the date fixed by the Board for receiving applications.

33. No person shall be admitted as a candidate at any examination for a manager's certificate unless he has gained a First Aid Certificate of the St. John Ambulance Association or other Society or Body approved by the Central Government:

Provided that if any candidate satisfies the Board of Examiners that he has not had sufficient opportunity to obtain such a certificate, the Board may admit him to the examination on such conditions, if any, as it thinks fit to impose.

34. No person shall be admitted as a candidate at any examination for a first class manager's certificate unless he has attained the age of 23 years, and has satisfied the Board of Examiners that he has had practical experience in a coal mine for a period of not less than five years.

Provided that this period shall be reduced to three years in the case of a candidate who has received a diploma or certificate in scientific and mining training after a course of study of at least two years at an educational institution approved in this behalf by the Central Government, or who has taken a degree in scientific and mining subjects at a University approved in this behalf by the Central Government.

35. No person shall be admitted as a candidate at any examination for a second class manager's certificate unless he has attained the age of 21 years, and has satisfied the Board of Examiners that he has had practical experience in a coal mine for a period of not less than three years:

Provided that this period shall be reduced to two years in the case of a candidate who has received a diploma or certificate in scientific and mining training after a course of study of at least two years at an educational institution approved in this behalf by the Central Government or who has taken a degree in scientific and mining subjects at a University approved in this behalf by the Central Government.

36. The periods of practical experience in a coal mine prescribed in regulations 34 and 35 may, subject to such conditions as the Board of Examiners thinks fit, be reduced at the discretion of the Board in the case of a candidate part of whose experience has been obtained in mines other than coal mines.

37. The nature of the practical experience required of a candidate under regulations 34 and 35 shall be experience gained in one or other of the following capacities in a coal mine, namely:—

- (a) as an underground workman having direct practical experience in the work of getting coal, and of stone work, timbering and repairing;
- (b) as a sirdar, deputy, overman, foreman, assistant or under-manager or other underground official;
- (c) as a mining apprentice, mine surveyor or colliery engineer, whose practical experience has included—
  - (i) actual practical work (other than the work of mine surveying or colliery engineering) of not less than two years in the case of candidates for first class certificates and of not less than one year in the case of candidates for second class certificates, in any part of the underground workings of a coal mine, or
  - (2) direct supervision of such work during a like period.

38. No person shall be admitted as a candidate at any examination for a surveyor's certificate unless he has attained the age of 21 years and has satisfied the Board of Examiners that he has had two years' practical experience of surveying, of which at least six months shall have been practical experience of surveying the underground workings of a mine.

**Explanations.**—For the purposes of this regulation approved attendance at classes in theoretical and practical surveying at a technical institution approved in this behalf by the Board of Examiners shall be considered to be practical experience of surveying other than practical experience of surveying the underground workings of a mine.

39. No person shall be admitted as a candidate at any examination for a sirdar's certificate unless he has attained the age of 21 years, and has satisfied the Board of Examiners that he has had practical experience in a coal mine for a period of not less than three years.

Provided that this period shall be reduced to one year in the case of a candidate who has received a diploma or certificate in scientific and mining training after a course of study of at least two years at an educational institution approved in this behalf by the Central Government, or who has taken a degree in scientific and mining subjects at a university approved in this behalf by the Central Government.

39-A. No person shall be admitted as a candidate at any examination for a shot-firer's certificate unless he has attained the age of 21 years and has satisfied the Board of Examiners that he has had two years' practical experience of underground work in a coal mine of which at least six months shall have been practical experience in connection with shot-firing.

40. Examinations for sirdars' certificates shall be conducted orally in English or in the vernacular language of the district in which the examination is held and shall be designed to test the candidate's knowledge of the following subjects, namely:—

- (a) timbering,
- (b) methods of examination of the roof and sides of working places and travelling roads,
- (c) shot-firing as detailed in clause (a) of Regulation 40-A,
- (d) mine gases and ventilation,
- (e) the provisions of the regulations, rules and bye-laws under the Act relating to the safety of persons employed in mines,
- (f) in the case of candidates for the endorsement referred to in the proviso to sub-regulation (1) of regulation 71, the methods of testing for and detecting the presence of inflammable gas.

40-A. Examinations for shot-firers' certificates shall be conducted orally in English or in the vernacular language of the district in which the examination is held and shall be designed to test the candidate's knowledge of the following subjects, namely:—

- (a) the charging and firing of shots of gunpowder and high explosives;
- (b) the provisions of the regulations, rules and bye-laws under the Act relating to the handling and use of explosives; and
- (c) the examination of a working place after shot-firing.

41. Applications for admission to an examination for first or second class managers' or surveyors' certificates shall be made to the Chief Inspector not less than one month prior to the date fixed for the examination. Every such application shall be submitted on a form which shall be supplied free of charge by the Chief Inspector on application made in this behalf.

42. (1) Applications for admission to an examination shall be chargeable with fees which shall be paid in the manner prescribed in Regulation 153 according to the following scale, namely:—

	Rs.
(a) in the case of an examination for a first class manager's certificate	25
(b) in the case of an examination for a second class manager's certificate	15
(c) in the case of an examination for a surveyor's certificate	15
(d) in the case of an examination for a sirdar's certificate	5
(e) in the case of an examination for a shot-firer's certificate	5

(2) The amount of any fee referred to in sub-regulation (1) less the following amounts shall be returnable to the person by whom it has been paid if the application of such person for admission to the examination is rejected:—

- (a) annas eight in the case of the fee paid for admission to an examination for a shot-firer's certificate;
- (b) Re. 1 in the case of the fee paid for admission to an examination for sirdar's certificate;
- (c) Rs. 5 in any other case.

(3) The Chief Inspector may permit the refund—

- (a) of the amount of any fee paid under sub-regulation (1) where the candidate has died before the examination or where the fee has been erroneously paid, and
- (b) of any amount paid in excess of that specified in sub-regulation (1).



43. (1) The Board of Examiners may grant to any person holding a manager's certificate, or a surveyor's certificate, granted under any Act for the regulation of mines for the time being in force in any other country, a certificate of a similar class under these regulations, provided that the person satisfies the Board of Examiners with documentary evidence that he possesses the requisite experience, and produces a certificate of good character from his previous employer, if any, and provided further that he has undergone for a period of not less than six months a course of practical training in Indian Mines in the mine approved by the Chief Inspector for the purpose, and in the case of an applicant for a manager's certificate, has also passed such examination in Mining Legislation and Mine Management as the Board of Examiners may prescribe.

(1A) If a person from any other country intends to apply for a certificate referred to in sub-regulation (1), he shall, before commencement of his practical training in India, submit an application in the form set out in Schedule III to these regulations to the Chief Inspector, who may, before according approval, impose such conditions as he may consider necessary.

(2) Applications for a certificate under this regulation shall be chargeable with fees which shall be paid in the manner prescribed in regulation 153 according to the following scale, namely:—

			Rs.
(a) in the case of a first class manager's certificate	...	...	25
(b) in the case of a second class manager's certificate	...	...	15
(c) in the case of a surveyor's certificate	...	...	15

44. If any person proves to the satisfaction of the Board of Examiners that he has without any fault on his part lost or been deprived of a certificate granted to him under these regulations, the Board may, upon such terms and conditions as it thinks fit, cause a copy of the certificate to be delivered to him. The word "Duplicate" shall be stamped across every such copy, and the following fees shall be payable in the manner prescribed in regulation 153:—

			Rs.	A	P.
(a) in the case of a manager's or surveyor's certificate	..	..	2	0	0
(b) in the case of a sirdar's certificate	...	...	1	0	0
(c) in the case of a shot-firer's certificate	...	...	0	8	0

45. The Chief Inspector shall issue to every person to whom the Board of Examiners grants a sirdar's certificate or shot-firer's certificate a metal check marked with the registered number of the certificate.

46. (1) The person to whom such metal check is issued shall, so long as the corresponding certificate remains in force, retain such check in his immediate possession, and shall not transfer it or dispose of it in any way. In the event of the corresponding certificate being cancelled, the check shall be returned to the Chief Inspector.

(2) No person employed in a mine other than the holder of the corresponding certificate for the time being in force shall be in possession of a metal check issued under Regulation 45.

(3) If any person proves to the satisfaction of the Chief Inspector that he has without any fault on his part lost or been deprived of the metal check issued to him under regulation 45, the Chief Inspector may, upon such terms and conditions as he may determine, cause a second metal check bearing the registered number of his certificate to be delivered to him. The letter "D" shall be stamped on the reverse of every such check and a fee of four annas shall be payable in advance to the Chief Inspector in respect thereof.

47. The holder of a sirdar's certificate or shot-firer's certificate shall deliver such certificate to the owner, agent or manager of any mine in which he is for the time being employed; and such owner, agent or manager shall in exchange for the certificate deliver a receipt for the same to the holder, and shall retain the certificate so long as the holder thereof is employed in such mine, and shall return it to the holder on his ceasing to be so employed.

48. Where it appears to the Central Government that any person holding a manager's certificate or a surveyor's certificate has been guilty of misconduct or incompetency in the discharge of his duties, or has been convicted of any offence made punishable by the Act with fine which may extend to Rs. 500 or more, or with imprisonment, the Central

Government may cause an inquiry into the conduct of such person to be made; and with respect to such enquiry the following provisions shall have effect, namely:—

- (a) The inquiry shall be public, and shall be held at such place as the Central Government may appoint, and by such person or uneven number of persons as it may direct (hereinafter in this regulation referred to as the Court), either alone or with the assistance of any assessor or assessors appointed by the Central Government. Such assessors shall be practical mining engineers or persons with a knowledge of the practical working of mines. The functions of the assessors shall be purely advisory and they shall not be regarded as members of the Court.
- (b) The Central Government shall, before the commencement of the inquiry, furnish the person whose conduct is under inquiry with a statement of the case on which the inquiry is instituted.
- (c) The Central Government may appoint any person to undertake the management of the case.
- (d) The person whose conduct is under inquiry may attend the inquiry, and may either conduct his case personally or be represented by any other person approved by the Court.
- (e) If a majority of the persons constituting the Court thinks fit, the person whose conduct is under inquiry may be required to deliver up his certificate at any time before or during the inquiry, and such person shall be bound to comply with such requisition, unless he shows sufficient cause to the contrary.
- (f) The Court shall, on the conclusion of the inquiry, send to the Central Government a report containing a full statement of the case together with its opinion thereon and such account of or extracts from the evidence as it may think fit, and if it considers that the certificate in question should be cancelled or suspended it shall add a recommendation to that effect. In the event of disagreement between the members composing any Court, the dissentient or dissentients from the opinion of the majority may forward a separate report to the Central Government with a statement of their recommendations.
- (g) After considering the report or reports and the recommendations (if any) submitted under clause (f) the Central Government may cancel or suspend the certificate, and, if it does so, the fact of such cancellation or suspension shall, if the certificate is produced be endorsed upon it and, if it is not produced or if at any time a duplicate has been granted under regulation 44, be notified in the *Gazette of India*.

49. If, in the opinion of an Inspector, a person to whom a sirdar's certificate or shot-firer's certificate has been granted is guilty of misconduct or incompetence in the discharge of his duties, the Inspector may suspend the certificate. Every such suspension shall be reported forthwith to the Board of Examiners and the Board shall thereupon, after such inquiry as it thinks fit, either remove or extend the suspension or cancel the certificate, and the decision of the Board shall be final.

50. (1) A permit (in these regulations referred to as a manager's permit) may be granted by the Chief Inspector at his discretion to any person authorising such person to act as the manager of any specified mine the average monthly output of which does not exceed 600 tons.

(2) All such permits shall be signed by the Chief Inspector and shall be valid for such period not exceeding one year as he may specify therein.

(3) A fee of five rupees shall be payable in the manner prescribed in regulation 153 in respect of an application for the grant of a manager's permit.

(4) The Chief Inspector may at any time renew any manager's permit for a further period not exceeding one year, notwithstanding that such permit has already been so renewed. No fee shall be chargeable in respect of any such renewal.

(5) A manager's permit may be cancelled at any time by the Chief Inspector by order in writing without assigning any reason for such cancellation and such order shall be final.

(6) Notwithstanding anything hereinbefore contained no manager's permit shall be granted or renewed to any person who is not the holder of a sirdar's certificate.

51. A register showing the names and addresses of the holders of certificates or permits granted under these regulations and all cancellations of such certificates or permits shall be maintained in the office of the Chief Inspector.

52. Any certificate, permit or authorisation specified in the first column of the table below which has been issued under the Indian Mines Act, 1902, or under any law made thereunder and is valid at the commencement of these regulations shall for the purposes of the Act and these regulations be deemed to have been issued under the provisions of the Act and these regulations.

ficate, permit or authorisation specified in the corresponding entry in the second column of the table and to have been issued under these regulations.

Manager's certificate of competency, First class	}	Manager's certificate, First Class
Manager's service certificate of competency, First class		
Manager's certificate of competency, Second class	}	Manager's certificate, Second Class
Manager's service certificate of competency, Second class		
Sirdar's certificate of competency	...	...
Permit to manage a mine	...	...
Authorisation to act as Manager of a mine	...	...

Sirdar's certificate.

Manager's permit

Authorisation to act as Manager of a mine

#### CHAPTER V—SHAFTS AND OUTLETS

53 (1) No person shall be employed, or be permitted to enter or remain for purposes of employment, in any mine, unless the mine is provided with at least two shafts or outlets—

(a) with which every seam for the time being at work has a communication so as to afford separate means of ingress and egress to the persons employed in seam; and

(b) which are under the sole control of the manager of the mine.

(2) Proper arrangements shall be made for persons to descend to, and ascend from, the mine at each of such shafts or outlets. If apparatus is necessary, it shall be kept on the works belonging to the mine, and shall be constantly available for use.

(3) Such shafts or outlets shall be not less than 45 feet distant from one another at any point, and each shall be connected with the other by means of a communication not less than 4 feet high and 4 feet wide.

(4) Whenever communication between the two outlets which are required to be maintained under sub-regulation (1) has been blocked or fenced off under regulation 140 (1), only such persons as are necessary to clear the obstruction, or to repair the dangerous part of the communication or to make a new second outlet, shall be employed in the mine until such time as communication has been re-established or a new second outlet has been provided.

(5) The foregoing provisions of this regulation with respect to shafts and outlets shall not apply—

(i) while a shaft is being sunk or an outlet is being made,

(ii) to any working for the purpose of making communication between two or more shafts or outlets,

(iii) to any working for the sole purpose of searching for or proving minerals, so long as not more than 40 persons are employed underground at any one time in the whole of the different seams in connection with a single shaft or outlet:

Provided that nothing in this sub-regulation shall be deemed to authorise the driving of ordinary galleries for development before a second outlet has been made in accordance with the said provisions.

(6) The Chief Inspector may exempt from the operation of this regulation, subject to such conditions as he may impose, any mine in the case of which special difficulties exist which in his opinion make compliance with the provisions of this regulation not reasonably practicable.

(7) So much of this regulation as requires two shafts or outlets to be separated by a distance of not less than 45 feet shall not apply to any shafts the sinking of which was commenced before the 10th day of March, 1904.

54. Where the natural strata are not safe, every working or pumping shaft and every shaft in course of being sunk, shall be securely cased, lined or otherwise made secure.

55. Every part of a mine shall, where practicable, be provided with at least two ways affording means of egress to the surface.

56. Where it is necessary for persons to pass from one side of a winding shaft to the other, proper provision shall be made enabling them to do so without crossing the shaft.

57. A competent person or persons, not less than 21 years of age, appointed by the manager for the purpose shall, once at least in every week, examine the state of the shafts by which persons ascend or descend, and shall without delay write or cause to be written a full and accurate report of the result of such examination. Every such report

shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

CHAPTER VI—RAISING AND LOWERING PERSONS OR MATERIALS

58. At every shaft or incline where persons or materials are lowered or raised by means of machinery the following provisions shall have effect, namely:—

- (a) A single linked chain shall not be used for lowering or raising persons, except for the short coupling chain attached to a cage, skip, bucket or tub.
- (b) Where the apparatus ordinarily used for raising and lowering persons to or from the surface is worked by mechanical power, it shall, if the shaft is vertical and exceeds 150 feet in depth, be provided with a detaching hook. The space between the detaching hook and the detaching plate when the cage is at the normal position at the top of the shaft shall not be less than 6 feet where a geared winding engine is used, and not less than 12 feet where a direct acting engine is used.
- (c) There shall be attached to every machine worked by mechanical power, and used for raising and lowering persons, one or more brakes of sufficient power by themselves to hold the cage, skip, bucket or tub, when loaded, at any point in the shaft, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage, skip, bucket or tub in the shaft; and, if the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft:

Provided that in the case of a shaft not exceeding 100 feet in depth so much of this clause as requires an indicator shall not apply.

- (d) Every apparatus on or in which persons ride in a working shaft, shall be provided with a sufficient cover overhead, except—
  - (i) in a shaft not exceeding 150 feet in depth where buckets or other appliances are used for winding, or
  - (ii) in a shaft in course of sinking, or
  - (iii) where persons are employed at work in a shaft.
- (e) Every working shaft used for the purpose of drawing mineral or for lowering or raising persons shall, if exceeding 150 feet in depth, be provided with proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft, to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft. There shall also be proper means of transmitting distinct and definite signals from the top of every winding shaft to the winding engine. All signals shall be transmitted by mechanical or electrical means.
- (f) (i) The first three or principal signals shall be—
 

One rap	. . . . .	RAISE when engine at rest.
One rap	. . . . .	STOP when engine in motion.
Two raps	. . . . .	LOWER.
Three raps	. . . . .	MEN ready to ascend or descend.
Three raps	. . . . .	IN REPLY. Men may enter the cage or other conveyance.

  - (ii) Any other signals shall be in addition to, and shall not interfere with, the foregoing.
  - (iii) A printed copy of the code of shaft signals shall be posted at the shaft top, and at every inset, and also at the winding engine.
  - (iv) No person other than the banksman or onsetter shall give any signal unless he is an official of the mine or is authorised in writing by the manager to give signals.
- (g) Every working shaft (except a shaft in course of sinking) used for lowering or raising persons shall, if it exceeds 150 feet in depth, be provided with guides.
- (h) At the bottom of every working shaft in which a cage is used, protective roofing shall be provided sufficient to prevent danger from anything falling in the shaft.
- (i) Adequate stationary lights shall be provided and used during working hours—
  - (1) at all places where persons have to work underground, in the immediate vicinity of shafts, and

(2) after dark at the tops of all working shafts and at all winding engines used for raising and lowering persons and in particular at all such engines, where electric lighting is used, an additional light having no connection with the electric supply shall be kept burning at night.

- (j) There shall be on the drum of every machine used for lowering or raising persons such flanges, horns or other appliances as may be sufficient to prevent the rope from slipping. The rope shall be securely fastened round an arm or the shaft of the drum, and there shall be at least two turns of the rope on the drum when the case, skip, bucket or tub is at the bottom of the shaft. After any stoppage of winding for more than two hours, the case, skip, bucket or tub shall, before any person is allowed to ride therein, be run a complete trip up and down the working portion of the shaft at least once, to ensure that everything is in good working order.
- (k) Every cage shall be provided with catches, or some other suitable contrivance to prevent tubs from falling out, and shall, if used for lowering or raising persons, be covered in completely at the top and closed in at the two sides in a manner sufficient to prevent persons or things from projecting beyond the sides and shall be provided with suitable gates or other rigid fences and with a rigid hand bar fixed in a position where it can be easily reached by all persons in the case.
- (l) A competent person or persons, of not less than 21 years of age, appointed by the manager for the purpose shall, once at least in every 24 hours, examine the state of the external parts of the machinery and of the head-gear, ropes, chains, cages, guides, and conductors in the shafts and other similar appliances of the mine which are in actual use, both underground and above ground, and shall without delay write or cause to be written a full and accurate report of the result of such examination. Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

59. No person shall get on or off a cage, skip, tub or bucket used for lowering or raising persons after the same has been set in motion, or leave it until it has reached the appointed stopping place; nor shall any person ride on the top or edge of any case, skip, tub or bucket except when engaged upon special work in the shaft.

60. No person, when ascending or descending a shaft, shall take with him any tools or other bulky materials, save when engaged in repairing the shaft or when otherwise specially authorised by the manager:

Provided that, in the case of tools only, the manager may, by general order permit the same to be carried.

61. No person shall ride in a shaft on, or against, a loaded cage, skip, tub or bucket.

62. Every person, when at or about the top or the bottom of a shaft, shall obey the orders and directions of the shaft attendants on duty at the time.

63. Not more than such number of persons as may be authorised by the manager shall be allowed to ride in the same cage, tub, skip or bucket at one time, and a notice specifying the authorised number shall be posted at the top of every shaft and at every inset in a shaft.

64. No person under 18 years of age and no woman shall descend or ascend a shaft in a cage, tub, skip or bucket unless accompanied by at least one person over 18 years of age.

65. When the winding apparatus is not provided with some automatic contrivance to prevent overwinding, a point shall be fixed and marked on the indicator in such a way as to show when the cage or other conveyance is within a distance of twice the circumference of the drum from the completion of the wind; and when such cage or conveyance has reached such distance it shall not, if either it or the descending cage contains persons, be raised for the remaining distance at a speed exceeding three miles per hour.

66. (1) All cage chains in general use shall be annealed and all detaching hooks shall be cleaned and refitted, and all winding ropes shall be re-capped, once at least in every six months, or, if necessary, at shorter intervals.

(2) The date of each such operation shall be recorded in a book kept at the mine for the purpose.

#### CHAPTER VII—ROADS AND WORKING PLACES

67. The roofs and sides of all working places and travelling roads, including airways and travelling roads to second outlets, shall be made and kept secure.

68. (1) In any mine or part of a mine where the roof is of such a nature as to require artificial support, an Inspector, after consultation with the manager, may require such support to be systematic, and may give notice to that effect to the manager, who shall, by notices posted in conspicuous places at the mine, specify the manner in which supports are to be set and advanced and the maximum intervals—

- (a) between each row of props,
- (b) between adjacent props in the same row,
- (c) between the front row of props and the face, and
- (d) between chocks or cogs.

(2) The manager and his subordinate staff shall be responsible for securing effective compliance with the terms of the notices and no such mine or part of a mine shall be worked in contravention of these terms.

69. (1) In open workings the overburden and all loose ground and material shall be removed sufficiently far from the edge, or otherwise made secure, in such a manner as to prevent danger to persons employed in the mine.

(2) The sides of open workings shall be sloped, stepped or secured in such a manner as to prevent danger from falls of material.

(3) When an open working is worked in steps, the steps shall be of sufficient breadth in comparison with their height to secure safety.

69-A. Every footpath along which loads are carried in open workings by human agency shall comply with the following requirements—

- (a) its breadth shall not be less than three feet;
- (b) its slope shall not be greater than 1 vertical to 2 horizontal;
- (c) at every place where its slope exceeds 1 vertical to 4 horizontal reasonably level steps shall be provided such that the vertical height of every step does not exceed seven inches and the dimension of every step measured horizontally from the edge to the back is not less than fourteen inches.

*Explanation.*—Gang-planks used for loading wagons shall not be deemed to be part of a footpath for the purposes of this regulation; provided that every gang-plank shall be so inclined or constructed as to give a secure foot-hold.

69-B. Where women are employed in carrying loads, the weight of the loads and the height and distance to which they have to be carried shall not be such as to involve risk of injury to the health of the women. If any dispute arises as to whether risk of injury to health is involved, the decision of the Chief Inspector shall be final.

70. (1) For the purposes of inspections before the commencement of a period of work constituting a shift at a mine, one or more stations shall be fixed by the manager at the entrance to the mine or to different parts of the mine, as the case may require, and no workman shall pass beyond any such station until the part of the mine beyond that station has been examined and reported to be safe in the manner hereinafter provided.

(2) A competent person or persons, having the prescribed qualifications and appointed by the manager, shall within such time, not exceeding two hours before the commencement of work in a shift, as may be fixed by the bye-laws of the mine inspect every part of the mine situated beyond the station or each of the stations fixed by the manager, in which work-persons are to work or pass during the shift, and all working places in which work is temporarily stopped and the edges of all goaves within any ventilating district in which persons have to work, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof and sides and general safety are concerned. The result of every such inspection shall be recorded in a book kept at the mine for the purpose.

(3) A like inspection shall be made at least twice in the course of each shift, and at least once in every five hours during which the shift continues, of all parts of the mine which are situated beyond the station or each of the stations aforesaid and in which work-persons have to work or which they have to traverse during that shift, but it shall not be necessary to record the result of such inspections in a book unless the last inspection in a shift is the inspection required to be made under sub-regulation (2).

(4) The inspection shall be made with an approved locked flame safety lamp and no additional light shall be used other than an approved electric torch or lamp:

Provided that in the case of a mine in which inflammable gas has never been found and is unlikely to be found, the inspection, except in the region of an underground fire or of any stoppings made to control a fire, may be made with an electric torch or lamp if it is used in conjunction with an open light or an approved locked flame safety lamp.

(4-A) In any inspection in the region of an underground fire, or of any stoppings made to control a fire, a cage containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector shall be carried.

(5) Every report referred to in sub-regulation (2) shall be made by the person inspecting, either when underground or immediately on his return to the surface, and shall be a full and accurate report of the inspection, specifying whether or not, and where, if anywhere, noxious or inflammable gas was found, and whether or not any and, if any, what defects in roof or sides and other sources of danger were observed. The report shall be signed by the person who made the inspection and shall state the date and time of the inspection and the date and time when the report was written.

(6) The part of a mine or mines assigned to a competent person under this regulation shall not be of such a size, nor shall any duties which may be assigned to him other than his duties under this regulation be such, as to be likely to prevent him from carrying out such last-mentioned duties in a thorough manner. If any question arises whether the part of a mine or mines assigned to any such person is too large or whether the additional duties assigned to him are too great, the decision of the Chief Inspector shall be final.

(7) A competent person or persons appointed by the manager shall inspect all airways and travelling roads leading to second outlets at least once a fortnight, and shall record the result of his inspection in a book kept at the mine for the purpose.

70 A. (1) The first inspection of a mine or part of a mine which is re-opened after a discontinuance of mining for a period exceeding seven days and of any part of a mine after being dewatered, shall be made by a person possessing the qualifications prescribed in sub-regulation (1) of Regulation 71 with an approved locked flame safety lamp.

(2) No additional light shall be used in any such inspection other than an approved electric torch or lamp.

(3) The result of every such inspection shall be reported by the person making it in the manner required by sub-regulation (5) of regulation 70 and shall be recorded in the book maintained in accordance with sub-regulation (2) of regulation 70.

70-B. (1) In any mine in which inflammable gas has been found during the previous twelve months, all unused workings in which inflammable gas may accumulate and which are not permanently sealed off, shall, at least once in every week, be inspected for the presence of inflammable gas, by the competent person appointed under regulation 70

(2) The inspection shall be made with an approved locked flame safety lamp, and no additional light shall be used, other than an approved electric torch or lamp.

(3) The result of every such inspection shall be reported by the person making it in the manner required by sub-regulation (5) of regulation 70 and shall be recorded in the book maintained in accordance with sub-regulation (2) of that regulation.

(4) Nothing in this regulation shall be construed to affect the provisions of Regulation 70.

70-C. *At every sealed off fire area in any mine and at every goaf or area of old workings isolated by stoppings in any mine in which safety lamps are required to be used in compliance with regulation 123, arrangements shall be made to ascertain from time to time atmospheric conditions behind the stoppings:*

*Provided that this regulation shall not apply—*

- (a) *to an area in a mine which is isolated by stoppings capable of resisting the force of an explosion, or*
- (b) *to any mine or part of a mine where in the opinion of the Chief Inspector special difficulties exist which make compliance with the provisions of this regulation not reasonably practicable.*

71. (1) No person shall, save as hereinafter provided, be appointed to make any inspection required by regulation 70 unless he—

- (i) has within the preceding five years obtained a certificate from an authority and in a form to be prescribed by the Board of Examiners constituted under these regulations to the effect that his powers of eye-sight and hearing are such as to enable him to make the inspection efficiently, and
- (ii) holds a manager's or a sirdar's certificate or a manager's permit or is for the time being authorised under sub-regulation (1) or regulation 24 to act as manager of the mine in which the inspection is to be made:

Provided that the holder of a sirdar's certificate shall not be appointed to make any such inspection in a mine in which safety lamps are used or in which inflammable gas is likely to occur, unless his certificate bears an endorsement to the effect that he is competent to test for and detect the presence of inflammable gas.

(2) A fee of one rupee payable in the manner prescribed in regulation 153 shall be chargeable from every person whose eyesight and hearing are examined for the purpose of enabling the grant to him of a certificate of adequate eye-sight and hearing referred to in

clause (4) of sub-regulation (1), unless such examination is made in the course of an examination held under regulation 40.

(3) Where an emergency exists, the manager of a mine may appoint to make the inspection required by regulation 70 any person who, in his opinion, is competent to make such inspection, notwithstanding the fact that such person does not possess the qualifications prescribed in sub-regulation (1):

Provided that such appointment shall not extend over a period exceeding one month:

Provided further that every such appointment and the reasons therefor shall forthwith be reported to the Chief Inspector. The Chief Inspector may cancel any appointment so made, and such cancellation shall be final.

72. (1) If at any time it is found by the person for the time being in charge of a mine or any part thereof that, by reason of any cause whatever, the mine or part is dangerous, every workman shall be withdrawn from the mine or part, and a competent person appointed by the manager for the purpose shall inspect the mine or part.

(2) The person so appointed shall make a full and accurate report of the condition of the mine or part and no workman shall, except in so far as is necessary for enquiring into the cause of the danger or for the removal thereof or for exploration be re-admitted into the mine or part, until the mine or part is reported by the person so appointed not to be dangerous.

(3) Every report made under sub-regulation (2) shall be recorded without delay in a paged book, which shall be kept at the mine for the purpose, and shall be dated and signed by the person who made the inspection:

Provided that—

(i) where the danger arises from the presence of inflammable or noxious gas, the provisions of regulation 72-A shall be followed;

(ii) where the appearance in any part of a mine of smoke or other sign indicates that a fire has or may have broken out, the provisions of regulation 87-F shall be followed.

72-A (1) When inflammable gas or any noxious gas is detected in any working place or any part of a mine, all persons shall be withdrawn from the place or part, and the place or part shall be immediately fenced off so as to prevent persons inadvertently entering the same. The official in charge of the district in which the gas has been detected shall take steps, without delay, to remove the gas by improving the ventilation and shall also send a report of the occurrence to the manager.

(2) During the removal of such gas no naked light shall be used in the ventilating district in which the gas is detected and all persons, except those necessary for such removal, shall be withdrawn from the return side of the ventilating district unless the quantity of gas is, in the opinion of the manager or other responsible official in charge of the mine in the manager's absence, so small that such withdrawal of persons is unnecessary.

(3) No workman shall be re-admitted into the place or part referred to in sub-regulation (1) until a competent person appointed by the manager for the purpose has inspected the place or part and has reported that the place or part is free from gas. Every such report shall be in writing and shall be dated and signed by the person who made the report.

(4) The inspection required by sub-regulation (3) shall be made with an approved locked flame safety lamp and, in the case of noxious gas, also with a cage containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector.

(5) Particulars of every occurrence referred to in sub-regulation (1) and every report submitted under sub-regulation (3) shall be recorded in a paged book, which shall be kept at the mine for the purpose, and it shall be stated in the book where and when the gas was found and when it was removed.

72-B. (1) No coal shall be extracted from any spot which lies vertically below—

(a) any part of the bed of any river, tank or reservoir, or

(b) any spot lying within a horizontal distance of 50 feet from either bank of a river or the boundary of a tank or reservoir,

except with the written permission of the Chief Inspector and subject to such conditions as he may specify.

(2) For the purposes of this regulation, where sand or alluvium are lying in the course of a river, or in a tank or reservoir, the bed of the river, tank or reservoir at that point shall be deemed to coincide with the surface of the hard strata underlying such sand or alluvium.



73. Where any part of a mine is so situated that there is any danger of irruption of surface water into the mine adequate protection against such an irruption shall be provided and maintained.

74. Where any working has approached within 100 feet of any place containing or likely to contain an accumulation of water or other liquid matter, or within 100 feet of disused working (not being workings which have been examined and found to be free from accumulation of water or other liquid matter) the working shall not exceed 8 feet in width or height, and there shall be maintained at least one bore-hole near the centre of the working face, and sufficient flank bore-holes on each side, and where necessary, bore-holes above and below the working, at intervals of not more than 15 feet. All such bore-holes shall be and shall be constantly maintained at sufficient distance in advance of the working and such distance shall in no case be less than 10 feet.

75. Where work is being done in any seam or part of seam below another seam or part of a seam which contains or may contain an accumulation of water, or where work is being done in an upper seam or part of an upper seam which is at a lower level than any part of a lower seam which contains or may contain an accumulation of water, adequate precautions shall be taken against such an irruption of water into the seam where work is being done as would be likely to endanger the lives of the workmen in the mine.

75-A. When the owner, agent or manager of a mine intends or proposes by introducing water from the surface, or from any other part of the mine or from an adjacent mine, to flood any part of the workings of his mine he shall give in writing not less than seven days' notice of his intention to commence such operations to the Chief Inspector and to the management of all adjacent mines and such other mines as might be affected by such flooding:

Provided that the Chief Inspector may by order in writing—

- (a) permit such operations to be commenced on any day prior to the expiry of seven days from the receipt of notice; or
- (b) require that such operations shall not be commenced until after the expiry of such time, not exceeding twenty days, from the receipt of notice as he may specify in this behalf.

75-B. If the operations in respect of which notice is given under regulation 75-A are not commenced within sixty days from the expiry of the period of notice of seven days therein referred to, the notice shall be deemed to have lapsed and the provisions of that regulation shall apply as if no such notice had been given.

76. (1) No working shall be made within a distance of 25 feet of the boundary of any mine property, or, in the case of a disputed boundary, within a distance of 25 feet of the boundary claimed by the owner of an adjacent mine until such time as a binding agreement has been reached as to the correct boundary or the question has been finally determined by a court of law.

(2) Notwithstanding anything contained in sub-regulation (1) the Chief Inspector may, by order in writing, permit the working of any mine or part of a mine to extend to within any shorter distance than 25 feet of the boundary of the mine, or may require that the working of any mine or part of a mine shall not extend further than any specified distance, not exceeding 100 feet, of such boundary.

(3) The owner of any mine affected or likely to be affected by any order passed by the Chief Inspector under sub-regulation (2) may prefer an appeal to the Mining Board constituted under section 10 of the Act, or, if no Mining Board has been so constituted for the part of British India in which the mine or part of a mine is situated to the Local Government, and the order of the Mining Board or of the Central Government thereon shall be final.

(4) Where the workings of two adjacent mines have each approached to within a distance of 100 feet of the respective boundary or boundaries of each mine property, or, in the case of a disputed boundary, within a distance of 100 feet of the boundary claimed by the owner of the adjacent mine, the owners of the two mines shall make a joint survey of the workings on either side of the common barrier and a copy of the plan showing the workings up to a date within six months shall be kept in the office at each of the mines.

77. (1) The dimensions of pillars and galleries and the shape of pillars formed in any seam shall be such as to ensure stability during the formation of pillars, during the extraction of pillars, and during the period between such formation and extraction.

(2) Save with the previous permission in writing of an Inspector, no gallery in a seam shall exceed 10 feet in height or 16 feet in width.

(3) Where the "pillar and stall" system of working is adopted the pillars formed in any seam shall normally be rectangular in shape.

(4) The distance between the centres of any two adjacent pillars left in a seam shall not be less than that specified in the appended table as corresponding to the depth of the seam from the surface and the average width of the galleries in the workings in question.

Depth of seam from surface.	Where the average width of the galleries does not exceed 10 feet, the distance between centres of adjacent pillars shall not be less than—	Where the average width of the galleries does not exceed 12 feet, the distance between centres of adjacent pillars shall not be less than—	Where the average width of the galleries does not exceed 14 feet, the distance between centres of adjacent pillars shall not be less than—	Where the average width of the galleries does not exceed 16 feet, the distance between centres of adjacent pillars shall not be less than—
	Feet	Feet	Feet	Feet
Not exceeding 200 feet.	40	50	60	65
Exceeding 200, but not exceeding 300 feet.	45	55	65	70
Exceeding 300, but not exceeding 500 feet.	55	65	75	85
Exceeding 500, but not exceeding 800 feet.	75	85	100	115
Exceeding 800 feet.	95	115	130	150

Provided that the Chief Inspector may, in the case of any particular seam or mine, by order in writing and subject to such conditions as he may specify, vary the distances specified in the said table.

(5) Nothing in sub-regulations (2), (3) and (4) shall apply to workings in a mine made before the coming into force of this regulation. In such workings the following provisions shall apply, except in depillaring operations:—

- (a) if the distances between the centres of adjacent pillars are smaller than those specified in the table appended to sub-regulation (4), the pillars shall not be further reduced;
- (b) if the distances between the centres of adjacent pillars are not smaller than those specified in the table appended to sub-regulation (4), the pillar shall not be so reduced as to render those distances smaller than—
  - (i) the distances so specified, or
  - (ii) any distance required in this behalf by the Chief Inspector;
- (c) if the height or width of a gallery exceeds the figure specified in sub-regulation (2), the dimensions of the gallery shall not be further increased without the permission in writing of an Inspector; and
- (d) if the height or width of a gallery is less than the figure specified in sub-regulation (2), it may be increased only to the extent so specified or to such extent as may be permitted by an Inspector in writing.

(6) In the case of all workings, where in the opinion of an Inspector the dimensions of pillars or galleries are such as to render it likely that crushing of pillars or the premature collapse of any part of the workings will occur either before or during the extraction of pillars, he may, by order in writing, require such modification of those dimensions in respect of any future working as he shall specify.

78. (1) The extraction of pillars shall be conducted in such a way as to prevent as far as possible the extension of a collapse or subsidence of the goaf over pillars which have not been extracted. Adequate timber or other supports shall be used where necessary.

(2) Save as provided by sub-regulation (3), no pillars shall be reduced or split in such a manner as to reduce the dimensions of the resultant pillars below those required by regulation 77 or by any order passed thereunder, nor shall any gallery be so heightened as to exceed the height required by or under that regulation.

(3) During the systematic extraction of pillars no 'splitting' or reduction of pillars or the heightening of galleries shall be effected for a greater distance than the length of two pillars ahead of the pillar that is being extracted or from the point at which pillar extraction is about to begin.

(4) An Inspector may by order in writing relax the provisions of sub-regulations (2) and (3) in respect of any specified workings to such extent and on such conditions as he may specify in the order.

78-A. Nothing in regulation 77 or regulation 78 shall prevent the driving of any gallery through any pillar or the enlargement of any gallery beyond the limits prescribed by or under these regulations when in the opinion of the manager such work is necessary for haulage, ventilation, drainage or any other purpose necessary for the proper working of the mine, if a week's previous notice of the intention to undertake such work has been sent to the Inspector.

78-B. Whenever "crush" of pillars or any symptoms of impending collapse other than that ordinarily caused by pillar extraction is detected, the owner, agent or manager of the mine shall inform the Chief Inspector forthwith.

79. Where the method of extraction is to remove all the coal, or as much of the coal as is practicable and allow the roof to fall in, operations shall be conducted in such a way as to leave as small an area of uncollapsed roof and, where practicable, means shall be taken to bring down the roof at regular intervals.

80. (1) In any mine in which two or more seams or sections of a seam are close to each other, the pillars in the one seam or section shall, where the strata are not highly inclined, be, as far as practicable, vertically above or below the pillars in the other seam or section.

(2) No work in a higher seam or section shall be done over an area in a lower seam or section which may collapse unexpectedly.

(3) No seam in a mine shall be worked in more than one section without the permission in writing of the Chief Inspector and under such conditions for ensuring the stability and safety of the workings as he may specify.

(4) Every application for permission under sub-regulation (3) shall be accompanied by a plan showing the proposed layout of the workings, the thickness of the seam, the depth of the seam from the surface, the rate and direction of dip, the dimensions of pillars and galleries in each section and the thickness of the parting between the sections.

(5) Where a seam in a mine is worked in two or more sections every such section shall be deemed to form a separate seam and the parting left between any two such sections or between the workings made in any two seams in a mine which are close to each other, shall not be less than 10 feet in thickness:

Provided that an Inspector may by order in writing—

(a) permit a smaller thickness of parting, if he is of opinion that the stability of the workings will not be affected thereby, or

(b) require a greater thickness of parting, if he is of opinion that such greater thickness is necessary for the safety of the workings.

80-A. If in any mine it appears to an Inspector authorised in this behalf in writing by the Chief Inspector that the provisions of regulation 77, regulation 78 or regulation 80 or of any order issued under any of those regulations have not been complied with, he may give notice in writing to the owner, agent or manager of the mine requiring him to take such protective measures, within such reasonable time, as he may specify in the notice; and in case of non-compliance, the Inspector may, by order in writing addressed to the person to whom the notice was given, prohibit the extraction of coal in the part or parts of the mine in which protective measures are required to be taken until the requirements, specified in the notice are complied with to his satisfaction.

81. (1) Proper provision shall be made in every mine to prevent—

(a) an outbreak of fire in the mine or the spread of fire to the mine from any mine adjacent to it,

(b) inundation by water from a neighbouring mine, and

(c) the premature collapse of workings,

and adequate steps shall be taken to isolate, control or remedy, as the case may require, any such outbreak, inundation or collapse which may occur.

(2) Where, in the opinion of an Inspector, the provision made or steps taken for the purposes specified in sub-regulations (1) are inadequate, he may require such additional provision or steps as he shall specify to be made or taken.

82. (1) An appeal against any order passed by an Inspector under any of the following regulations, namely, regulations 68, 77, 78, 80, 80A and 81, may be preferred to the Chief Inspector and the order of the Chief Inspector thereon shall, save as otherwise provided in sub-regulation (2), be final.

(2) An appeal against any order passed by the Chief Inspector—

(a) under sub-regulations (4) and (5) of regulation 77 or sub-regulation (3) of regulation 80; or

(b) on appeal under sub-regulation (1) of this regulation against any order of an Inspector passed under regulations 77, 78, 80 and 80A, may be preferred to the Central Government, which shall refer the same to a Committee constituted in the manner laid down in sub-sections (1) and (2) of section 11 of the Act.

(3) The procedure laid down in sub-sections (3), (4) and (5) of section 11 of the Act shall apply to a reference made to Committee under sub-regulation (2).

(4) Every order against which an appeal is preferred under sub-regulation (2) shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the appellant, suspend the operation of the order appealed against pending the disposal of the appeal.

83. Every person shall examine his own working place before commencing work, and also at intervals during the shift. If any dangerous condition is observed by him he shall either remedy it or immediately leave the place and report the fact to an official of the mine, who shall deal with the matter without delay.

84. (1) No person shall work in any place in which he has not been ordered to work either by an official of the mine or by a person authorised in this behalf by an official of the mine.

(2) No person shall cut coal from any pillar, roof or floor unless specially so authorised by the manager, or other person qualified under the provisions of regulation 71 to make an inspection required by regulation 70.

85. After an explosion of fire-damp or coal dust in a mine only such persons as are authorised by the manager or an official appointed by the manager for the purpose or, in the absence of the manager or such official, by the principal official of the mine present at the surface, shall be allowed to enter the mine.

86. Where rescue or recovery work is being undertaken in a mine or part of a mine likely to contain an irrespirable atmosphere, no party of less than three shall be allowed to enter.

#### CHAPTER VII-A—SPECIAL PRECAUTIONS AGAINST SPONTANEOUS COMBUSTION AND UNDERGROUND FIRES

87. In any mine in which an underground fire exists, whether such fire has been sealed off by means of stoppings of non-inflammable material or not or in which an explosion of fire damp or coal dust is likely to occur, there shall be kept at the mine constantly available for use two or more small birds or *other means approved by the Chief Inspector of detecting carbon monoxide gas* and two or more *approved locked flame safety lamps* for the purpose of testing for inflammable and other gases:

Provided that the Chief Inspector or an Inspector may require compliance with this regulation in the case of any other mine if he thinks that the circumstances of the mine are such as to require it.

87-A. (1) All surface structures and supports within a horizontal distance of 25 feet from the perimeter of shafts and the covering of all shafts sealed off or covered for ventilation purposes, and all fan drifts, fan casings and parts of fans within such drifts or casings, shall be of non-inflammable material:

Provided that this sub-regulation shall not apply to—

(a) structures and supports and the covering of shafts, if they are so protected by non-inflammable material as to eliminate the risk of fire;

(b) the small lid or covering of a shaft covering operated by the rope cappel; and

(c) temporary structures, supports and coverings at the top of shafts which are in the course of being sunk:

Provided further that until 30th of April 1940 this sub-regulation shall not apply to wooden headgears which were in use on the date on which this sub-regulation came into force.

(2) All air-crossings in main intake or main return airways and all ventilation or separation doors in any fan house or fan drift and in the vicinity of shaft bottoms or air-crossings in main intake or main return airways shall be constructed of non-inflammable material and shall be designed, as far as practicable, to prevent leakage.

(3) No timber or other inflammable material shall be used in the construction of or in connection with any underground engine-house or electrical sub-station, switch house or motor room.

87-B. No oil grease, canvas, or other highly inflammable material shall be stored underground in any mine except in a fire-proof receptacle or chamber.

87-C. (1) Adequate means of extinguishing fire shall be provided at any part of a mine where timber, grease or other inflammable material is stored and at all insets where timber is used for the construction of the staging and at every pithead, pit-bottom, engine-room and electrical apparatus room.

(2) In every mine in which there are water mains or other pipes containing water under pressure, an adequate number of taps shall be provided on such mains or pipes. Hose pipe not less than 200 feet in length with the necessary fittings shall be kept readily available in the mine and the distance between two adjacent taps shall not exceed the length of the hose pipe.

(3) *In mines or parts of mines where in the opinion of the Chief Inspector arrangements for extinguishing a fire cannot reasonably be provided under sub-regulation (2), one or more of the following means shall be adopted—*

(a) portable fire extinguishers shall be provided and kept readily available and in good condition at suitable places underground; or

(b) portable water tank fitted with hand pressure pumps and an adequate length of hose piping shall be provided; or

(c) adequate supplies of sand or incombustible dust shall be kept available at suitable places underground.

(4) A competent person appointed in writing by the manager for the purpose shall examine each portable fire extinguisher provided under sub-regulation (3) at intervals not exceeding three months, and the result of each such examination shall be recorded in a book kept at the mine for the purpose.

(5) Water shall not be used for putting out electrical or oil fires.

87-D. (1) No person shall light a fire or deposit ashes or heated material in any coal quarry, or on any exposed outcrop of coal, or on any ground damaged by the extraction of coal in which open fissures or cavities exist.

(2) No person shall light a fire or permit a fire to be lighted in any underground part of a mine:

Provided that nothing in this sub-regulation shall apply to the use in a mine to which regulation 123 does not apply, of blow lamps or electric repairing apparatus if permitted by a special written order granted by the manager of the mine. The order shall specify the person who shall be in charge of the blow lamp or apparatus and shall require such person to bring it back to the surface when no longer required.

(3) No person shall light a fire or permit a fire to be lighted within a distance of 40 feet from the perimeter of any shaft except in accordance with a written order granted by the manager of the mine and only for a special purpose specified in such order:

Provided that this sub-regulation shall not apply to boilers other than vertical boilers.

(4) All such orders shall be recorded in a paged book kept in the office of the mine.

(5) No person shall ignite a 'feeder' or an accumulation of gas.

87-E. No excavation shall be done in any part of a seam lying under any part of another seam which is on fire or is believed to be on fire or which is connected by a goaf or by broken strata to any fire except by a method which will maintain the strata between the seams *in situ* and intact.

87-F. (1) On the appearance in any part of a mine of smoke or other sign indicating that a fire has or may have broken out all workmen other than those whose presence in the mine is deemed necessary for dealing with the emergency shall be immediately withdrawn from the mine. No workmen, other than the men required for dealing with or damming off the fire, shall be re-admitted until either the fire has been extinguished or the part in which it exists has been effectively dammed off and an examination has been made by the manager and the competent person appointed under regulation 72 and the mine has been reported to be safe. Every such report shall be recorded without delay

in a paged book, which shall be kept at the mine for the purpose and shall be dated and signed by the manager and the competent person who made the inspection:

Provided that in a mechanically ventilated mine in which the use of safety lamps is not required other than for inspection purposes, this regulation shall apply only to the ventilating district or districts, that may be affected.

(2) The examination required by sub-regulation (1) shall be made with an approved locked flame safety lamp and a cage containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector. No additional light shall be used other than an approved electric torch or lamp.

87-G. (1) Approved locked safety lamps or electric torches shall be exclusively used in the work of dealing with or damming off an underground fire:

Provided that where, in the opinion of the manager, it is necessary to take immediate steps to deal with an outbreak of fire, the provisions of this sub-regulation shall be deemed to have been complied with if the workmen engaged in dealing with the fire are provided with approved safety lamps or electric torches as quickly as is reasonably practicable.

(2) During the work of dealing with or damming off an underground fire a cage or cages containing small birds or other means of detecting carbon monoxide gas approved by the Chief Inspector shall be kept at all places in which persons may be in danger from noxious gases.

87-H. Approved locked safety lamps or electric torches shall be exclusively used in any ventilating district of a mine in which there is an underground fire whether such fire is sealed off by stoppings or not:

Provided that the Chief Inspector may in the case of any mine, grant exemption from this regulation under such conditions as he may impose, if, in his opinion, the use of approved safety lamps or electric torches in such mine is not necessary.

87-I. (1) In any ventilating district of a mine which is not naturally wet throughout and—

- (i) in which there is underground fire, whether sealed off or not; or
- (ii) in which the extraction of pillars is in hand or is about to commence;

the following precautions with respect to danger from dry coal dust shall be taken:—

- (a) All haulage and tramming roads shall be systematically kept clear of accumulations of dry coal dust.
- (b) All such roads shall be systematically treated with water or incombustible dust in such a manner as to prevent an explosion from being initiated or propagated by coal dust. If incombustible dust is used for the purpose, it shall be of a kind which is not likely to be injurious to the health of workmen.
- (2) The precaution laid down in sub-regulation (1) shall also be observed at all places within 400 feet of an area—
  - (i) which has been or is being sealed off on account of fire; or
  - (ii) in which pillars are being extracted.
- (3) The Chief Inspector may, by order in writing, grant, subject to such conditions as he may impose, exemption from the provisions of sub-regulation (1) or sub-regulation (2) to any mine or part of a mine on the ground that, on account of the special character of the mine or part, the observance of the precaution laid down therein is not necessary.

87-J. In any working mine in which a fire is known or is believed to exist—

- (a) adequate precautions shall be taken to prevent the passage of air from the mine through any goaf or through broken strata connected with the fire; and
- (b) no work, other than work required by clause (a) of this regulation, shall be done in any part of the mine which not effectively sealed off from any such goaf or broken strata.

#### CHAPTER VIII—HAULAGE

88. (1) Every haulage road on which the haulage is worked by gravity or mechanical power shall be provided with sufficient manholes for refuge, which shall in no case be placed at intervals of more than 60 feet and which shall not be less than 5 feet in height, 3 feet in width, and 4 feet in depth. Where the inclination is more than 1 in 6 the manholes shall be at intervals of not more than thirty feet:

Provided that in any case in which an Inspector considers that there are difficulties which make the provision of a manhole at the above specified intervals, or of the above specified dimension not reasonably practicable, he may, by order in writing, specify a greater interval or reduced dimensions.

(2) Every manhole shall be kept clean and whitewashed both inside and for a distance of not less than one foot around the aperture and the entrance of such manhole shall be kept unobstructed.

89. Every haulage road exceeding 100 feet in length on which the haulage is worked by gravity or mechanical power, shall be provided with proper means of communicating distinct and definite signals from all regular stopping places to the place or places at which the persons who control the haulage machinery are stationed:

Provided that the Chief Inspector may, at his discretion and by order in writing, require that there shall be means of communicating signals in the reverse direction also.

The first four or principal signals shall be—

Three raps	...	...	START when at rest.
One rap	...	...	STOP when in motion.
Two raps			LOWER SLOWLY or HAUL IN SLOWLY.
Four raps	...	...	RAISE SLOWLY or HAUL OUT SLOWLY.

Any other signals shall be in addition to and shall not interfere with the foregoing:

Provided that the Chief Inspector, by order in writing, may, at his discretion, permit the use of a different code of haulage signals.

90. A printed copy of the code of haulage signals shall be kept posted at the brake-wheel or haulage engine, and at both ends of the haulage road and at every signalling station.

91. The signal handle or attachment at every stopping place on any haulage or self-acting incline shall be placed in such a position as will enable the person operating the signals to be safe in the case of a runaway tub or tubs on the incline.

92. At the top of every incline on which the haulage, not being endless rope or endless chain haulage, is worked by mechanical power or gravity there shall be stop-blocks or other similar contrivances to prevent tubs from running away. Additional stop-blocks or runaway switches, or some other appliance for arresting the descent of tubs in the event of a runaway, shall be fixed below the first stop-blocks at a greater distance than the length of a train of tubs. There shall also be provided and attached behind the ascending tub or train of tubs a back-stay, drag or other suitable contrivance for preventing the tub or tubs from running back.

93. Where a main haulage road extends to a distance of more than 3,000 feet from the shaft or the entrance to the mine, efficient means of telephonic communication shall be provided and maintained between a suitable station near the end of every such main haulage road, the pit-bottom and the surface, or between a suitable station near the end of every main haulage road and the entrance to the mine:

Provided that the Chief Inspector may by order in writing require the provision of means of telephonic communication where in any mine the main haulage extends to a distance of less than 3,000 feet from the shaft or the entrance to the mine, where travelling is unduly arduous:

Provided further that the Chief Inspector may, by order in writing, permit the use of other suitable means of communication in cases in which the conditions in the mine are not suitable for telephones.

94. Where haulage is effected by means of an endless rope or chain, automatic catches shall be fixed at such points on the haulage road as may be necessary to prevent tubs from running away.

95. (1) No person shall permit a tub or tubs to run uncontrolled except with the consent of the manager:

Provided that the Chief Inspector may, by order in writing, prohibit the uncontrolled movement of tubs at any place where, in his opinion, there would be danger of injury to persons.

(2) No person shall ride on any tub, truck or wagon, either underground or above ground, except with the written permission of the manager.

96. Where the Chief Inspector so requires, travelling roads, separate from the haulage roads, shall be provided to and from the working places.

96-A. In every underground part of a mine—

- (1) main haulage and travelling roads shall, as far as practicable, be kept free from accumulations of fine coal dust;
- (2) all coal tubs shall be so constructed and maintained as to prevent, as far as practicable, coal dust escaping through their sides, ends or floors.

#### CHAPTER IX—EXPLOSIVES

97. No owner, agent or manager shall store, or knowingly allow any other person to store, within the premises of the mine any explosives otherwise than in accordance with the provisions of rules made under the Indian Explosives Act, 1884.

98. No explosive shall be stored in the workings of a mine or taken into or kept in a dwelling house.

99. No explosive shall be used in a mine except that provided by the manager.

100. The manager shall appoint in writing a competent person or persons to be in charge of every magazine for the storage of explosives, and no person shall be in charge of a magazine without such written authority.

101. Explosives shall be issued only to competent persons appointed in writing by the manager, and no unauthorised person shall have explosives in his possession.

101-A. No liquid oxygen explosive shall be used in any underground part of a mine.

102. *No gunpowder or any other kind of explosive, except fuses and detonators, shall be issued for use in blasting operations in a mine or used in a mine except in the form of cartridges.*

103. Explosive unused and left over at the end of a shift shall be returned to the magazine immediately after the end of the shift. Such returned explosives shall be re-issued before fresh stock is used.

104. The person in charge of a magazine shall keep a correct record of the quantity of gunpowder and of the numbers of cartridges of other kinds of explosives and of detonators issued from the magazine to each authorised person, and a similar record of explosives returned to the magazine.

105. The preparation of cartridges from loose gunpowder, the drying of gunpowder, and the re-constitution of damp cartridges shall be carried out only by a competent person or persons appointed in writing by the manager for the purpose, and only in accordance with the conditions laid down in rules made under the Indian Explosives Act, 1884, and in a place approved by the licensing authority.

106. No explosive shall be taken into a mine except in *securely locked cases* or canisters, containing not more than five pounds each, and no person shall have in use or keep for use, at one time in any one place, more than one such case or canister. The place, in the mine at which any such case or canister is in use, or is kept for use, shall, unless solid ground directly intervenes, not be less than 30 feet from a place at which any other such case or canister is in use or kept for use:

Provided that the Chief Inspector may, in special cases by order in writing, permit, subject to such limitations as he may prescribe, the use at one time in one place of more than one such case or canister.

107. The amount of every charge of explosive shall not be disproportionate to the work to be done. The charge shall be placed in a properly drilled and placed shot hole and shall have sufficient stemming. A sufficient supply of suitable non-inflammable stemming material shall be provided at places convenient to the shot-firers.

108. (1) No shot shall be stemmed or fired except by or under the personal supervision of a competent person appointed by the manager by order in writing to be a shot-firer.

(2) In any mine in which more than 50 persons are employed underground at any one time, no person shall be so appointed or shall perform the duties of a shot-firer who is responsible for making inspections under sub-regulation (2) of regulation 70.

(3) With effect from the 1st day of April 1940, no person shall be appointed as a shot-firer under sub-regulation (1) unless he holds either a shot-firer's certificate or a sirdar's certificate or a manager's certificate granted under these regulations.

109. Every shot-firer shall, before a shot is fired by him or under his supervision, see that all persons in the vicinity have taken proper shelter at a safe distance; he shall also take suitable steps to prevent any person approaching the shot and shall himself take proper shelter.



110. When two working places have approached to within 10 feet of one another, no blasting shall be done in any one of such workings unless the workmen have been withdrawn from the other working, and the same has been fenced.

*Explanation.*—For the purposes of this regulation, any place to which workmen have lawful access shall be deemed to be a working place.

111. In the process of charging or stemming for blasting, no person shall use or have in his possession any iron or steel pricker, scraper, tamping rod, or stemmer, and only suitable non-inflammable substance shall be used for tamping or stemming.

112. (1) *When a hole has been charged, the explosive shall not be unrammed.*

(2) *No hole shall be bored at a distance of less than 12 inches from any hole where a charge has misfired nor shall a second charge be placed in any such hole.*

113. Detonators shall be kept in a securely locked box separate from any other explosive and no detonator shall be inserted into the priming cartridge until immediately before it is to be used.

Provided that in the case of a wet working, priming cartridges may be prepared at the nearest convenient dry place adjacent to the working.

114. No explosives shall be forcibly pressed into a hole of insufficient size.

115. (1) In any place in a mine in which the use of a locked safety lamp is for the time being required by or in pursuance of these regulations—

- (a) no shot shall be stemmed or fired by any person who does not hold a sirdar's certificate endorsed for gas testing;
- (b) no shot shall be fired until the shot-firer has examined both the place where the shot is to be fired and all accessible places within a radius of 60 feet for the presence of inflammable gas and has found such places free from gas.
- (c) no shot of a Permitted Explosive shall be fired except by means of a shot-firing apparatus of a type approved by the Chief Inspector and subject to such conditions as he may from time to time lay down by notification in the *Gazette of India*:

Provided that the Chief Inspector may, in special cases, by order in writing, permit, subject to such conditions as he may specify, the use of any other shot-firing apparatus.

(2) (i) Every approved shot-firing apparatus in use in a mine shall, once at least in every three months, be cleaned and thoroughly overhauled by a competent person appointed in writing by the manager.

(ii) No person shall use or allow to be used any approved apparatus which has become unsafe or defective.

(3) No shot shall be fired at any place underground in a mine unless the place itself and all accessible places within a distance of 60 feet—

- (a) are naturally wet, or
- (b) have been drenched with water to such an extent that there will be no danger of dry coal-dust being raised into the air by the shot, or
- (c) have been thoroughly treated with incombustible dust.

116. No explosive other than a Permitted Explosive shall be used—

- (a) in any mine in which inflammable gas has within the previous twelve months been reported to be present or in which safety lamps are required, by or in pursuance of these regulations, to be used for any purpose other than inspections; and
- (b) in any other mine in any main haulage road or main intake or main return airway or any place immediately contiguous to such road, intake, airway or place, unless such road, intake, airway or place is naturally wet throughout:

Provided that in the case of any mine or any part of a mine an exemption may be given by the Chief Inspector, subject to such conditions as he may impose, on the ground that, on account of the special character of the mine, the prohibition of the use of explosives other than Permitted Explosives is not necessary.

116-A. In any mine in which the use of Permitted Explosives is required by these regulations or by any bye-law or order made under the Act:—

- (a) where more shots than one are charged for firing, the shots shall be fired simultaneously;
- (b) the aggregate charge in any number of shots fired simultaneously in coal shall not exceed the permissible maximum charge laid down by the Chief Inspector for the kind of "Permitted Explosive" used;

(c) no shot shall be fired in coal in any gallery unless—

(i) the coal has been undercut, overcut or sidecut; and

(2) the length of the shot hole is at least six inches less than the length of the cut.

116-B. In any underground part of a mine two or more shots shall not be charged or fired in the same place simultaneously, if the explosive used is not a Permitted Explosive:

Provided that this regulation shall not apply to—

(a) working places in which the roof, floor and sides within a radius of 100 feet of the place where shots are to be fired are naturally wet; or

(b) a cross-measure drift in stone if such drift does not contain dry coal-dust; or

(c) shafts which are in the process of being sunk through or across the strata.

116-C. *Where shots are fired electrically, the shot-firer shall—*

(i) *for the purpose of firing, use a cable which is not less than 60 feet in length;*

(ii) *before coupling the cable to the firing apparatus couple up the cable himself to the fuse or detonator wires;*

(iii) *take care to prevent the cable coming into contact with any power or lighting cable; and*

(iv) *himself couple the cable to the firing apparatus, and before doing so, see that all persons in the vicinity have taken proper shelter at a safe distance.*

117. After a shot has been fired the shot-firer appointed under regulation 108 or other competent person appointed in writing by the manager of the mine shall, before any other person enters the place, make a careful examination and with his assistants make the place safe. No other person shall enter the place until the examination has been made and the place has been declared to be safe in all respects.

118. When a shot has misfired, the entrance to the firing place shall be fenced, and no person shall go beyond the fence until the expiration of one hour from the time of misfiring; but when an electrical apparatus has been used for firing, this interval may be reduced to such time, not being less than ten minutes after the cable has been disconnected from the firing battery, as the manager of the mine may in each case direct.

119. When a shot has misfired, the official or other competent person in charge of the explosive at the time of the misfire shall report the failure to the manager or under-manager, who shall record the fact in a book to be kept for the purpose; and such official or other competent person shall give information of the failure to such person as may relieve or take over charge from him.

120. When a misfired charge of explosive has been blasted out, a careful search for cartridges and detonators, if any, shall be made amongst the debris, and, if not located underground, the tubs into which the debris is loaded shall be marked and a further search made on the surface.

#### CHAPTER X—VENTILATION AND LIGHTING

121. (1) An adequate amount of ventilation shall be constantly produced in every mine to clear away smoke and to dilute and render harmless inflammable and noxious gases to such an extent that the working places of the shafts, levels and workings of the mine, and the travelling roads to and from these working places, shall be in a safe state for persons working or passing therein.

(2) *Where the Chief Inspector is of the opinion that it is necessary for the adequate ventilation of a mine or for the prevention of danger from inflammable or noxious gases, he may require that a mechanical ventilator shall be installed.*

121-A. (1) The Chief Inspector may require the manager of any mine in which, or in any part of which, a mechanical ventilator is in use, to submit within one month Standing Orders specifying the action that shall be taken with respect to the withdrawal of workmen from such mine or parts of such mine in the event of stoppage of the mechanical ventilator.

(2) The Chief Inspector may approve of such Standing Orders either in the form submitted to him or with such additions or alterations as he may think fit and shall give notice in writing to the manager that the Standing Orders in the form approved by him shall be enforced at the mine.

(3) On receipt of the notice from the Chief Inspector, the manager shall post the Standing Orders in conspicuous places at the mine both above and below ground and shall be responsible for securing effective compliance with them.

122. (1) *In every mine in which inflammable gas has been found within the previous twelve months or where workings have been walled off on account of fire, the quantity of air shall at least once in every month be measured—*

- (i) *in the main intake airways of every seam as near as practicable to the down-cast shafts;*
- (ii) *in every split, as near as practicable to the point at which the split commences; and*
- (iii) *in each ventilating district, as near as practicable to a point where the air is sub-divided at the end of a main split or where it enters the first working place.*

(2) *The measurements referred to in sub-regulation (1) shall be entered in a book kept at the mine for the purpose.*

123. (1) *No artificial light other than an approved locked safety lamp shall be allowed or used—*

- (a) *in any seam in a mine in which an explosion or ignition of inflammable gas has occurred during the previous twelve months:*

*Provided that the Chief Inspector may, subject to such conditions as he may impose, exempt any mine from the operation of this clause, on the ground that on account of the special character of the mine the use of safety lamps is not necessary;*

- (b) *in any place in a mine in which there is or is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous;*
- (c) *in any working near a place in which there is likely to be an accumulation of inflammable gas; or*
- (d) *in any ventilating district of a mine in which inflammable gas has been found during the previous twelve months.*

(2) *If any difference of opinion arises between an Inspector and a manager on the question whether the conditions specified in clauses (b) and (c) of sub-regulation (1) exist in any mine, the question shall be referred to the Chief Inspector whose decision thereon shall be final.*

(3) *In the case of any mine to which clause (d) of sub-regulation (1) applies the Chief Inspector may, if safety lamps are not immediately available, grant a temporary exemption from the operation of that clause, subject to such conditions as he may specify, until such time as safety lamps can be obtained*

(4) *In any mine or part of a mine in which safety lamps have been in use in compliance with the provisions of sub-regulation (1), no artificial light other than an approved locked safety lamp shall subsequently be allowed or used, except with the written consent of the Chief Inspector.*

*Explanation.*—Where the ventilation in a mine is not mechanically controlled, the ventilating district shall be deemed to include the whole mine. Where the ventilation in part only of a mine is not mechanically controlled, the whole of the part in which ventilation is not mechanically controlled shall be deemed to be a single ventilating district.

124. *Notwithstanding anything contained in regulation 123, fixed electric lights from power mains may be used in any part of a mine which is not within 600 feet of any working face, provided such installation complies with the rules made under the Indian Electricity Act, 1910, relating to the use of electric energy in parts of mines in which inflammable gas is likely to occur in quantity sufficient to be indicative of danger.*

125. *In any mine in which inflammable gas has been found during the previous twelve months, no advance gallery shall be driven more than ten feet ahead of the widened gallery and in every such gallery the ventilating current shall be conducted as near to the working face as is practicable.*

126. *All safety lamps in ordinary use shall be numbered and such record shall be kept of the persons to whom the lamps are issued that the user of any particular lamp can at any time be identified from the record.*

127. *In every mine or part of a mine in which the use of safety lamps is for the time being required by or in pursuance of these regulations, the following provisions shall have effect, namely:—*

- (a) *A competent person shall be appointed in writing by the manager to clean, trim, examine, and lock securely all such lamps before they are taken into the workings for use, and such lamps shall not be issued for use until they have been so examined and found to be in safe working order and securely locked.*
- (b) *A competent person appointed in writing by the manager for the purpose shall examine every safety lamp at the surface immediately before it is taken*

underground for use and shall assure himself as far as practicable from external observation that each lamp is in safe working order and securely locked. The person so appointed shall not be the banksman except in a mine where the number of persons employed underground is not more than fifty at any one time.

- (c) No safety lamp shall be unlocked except at the appointed lamp station.
- (d) A competent person appointed in writing by the manager for the purpose shall examine every safety lamp on its being returned, after use underground. If on such examination any lamp is found to be damaged or misused, he shall record the nature of the damage or misuse in a book to be kept at the mine for the purpose. Every new entry in the book shall be shown to the manager without delay.
- (e) The manager or a competent official appointed in writing by the manager for the purpose, other than the persons referred to in clauses (a) and (b) of this regulation, shall examine thoroughly all safety lamps in use at a mine at least once in every week, and shall record the result of his examination in a book kept at the mine for the purpose. If any lamp is found to be defective, it shall not be re-issued for use until the defect has been remedied.
- (f) No person, unless he has been authorised in writing by the manager either for the purpose of examining or relighting safety lamps, shall have in his possession any contrivance for opening the lock of a safety lamp.
- (g) No person shall have in his possession any unlocked safety lamp or naked light, and if it appears to any person that any safety lamp in his possession is defective or insecure he shall at once carefully extinguish the flame and report the fact to the sirdar, overman or manager.
- (h) No glass of an approved flame safety lamp shall be replaced except by a flame lamp glass manufactured by such firm and of such type and satisfying such conditions as the Chief Inspector may from time to time specify by notification in the *Gazette of India*.
- (i) No bulb of an approved electric safety lamp shall be replaced except by an electric lamp bulb manufactured by such firm and of such type and satisfying such conditions as the Chief Inspector may from time to time specify by notification in the *Gazette of India*.

*Explanation.*—For the purposes of this regulation the term "manager" includes an under-manager and any person for the time being carrying on the duties of the manager.

128. Where the use of safety lamps is for the time being required by or in pursuance of these regulations, one or more lamp stations for lighting or relighting the lamps shall be fixed by the manager at the entrance to the mine or part of the mine, as the case may require. No such lamp station shall be in a return airway. Every such lamp station shall be in charge of a person authorised in writing by the manager.

129. No person other than a person authorised by the manager to examine and lock safety lamps shall either himself take or give out for use any safety lamp.

130. No person shall wilfully damage, or improperly use, or by improper means extinguish, any safety lamp, and no one except a person duly authorised by the manager in that behalf shall unlock or open or attempt to unlock or open any safety lamp.

131. Any person discovering the presence of inflammable gas in his working place shall immediately withdraw therefrom and inform the sirdar, overman or manager.

132. In any underground part of a mine where adequate stationary lights are not in use, every person shall carry a light.

133. No person shall leave a light in any underground part of a mine unless and until he has placed it in charge of some person remaining therein.

134. Every person after passing through a door or brattice cloth shall at once close it.

135. (1) In every mine or part of a mine in which the use of safety lamps is for the time being required by or in pursuance of these regulations no person shall have in his possession any match, smoking apparatus or any apparatus of any kind for striking a light, except such apparatus for the purpose of shot-firing or relighting lamps as the Chief Inspector may by general or special order in writing authorise in this behalf.

(2) A competent person appointed in writing by the manager for the purpose shall search all persons employed below ground immediately before they enter such mine or

part of a mine for the purpose of ascertaining whether they have in their possession any article of the nature described in sub-regulation (1).

(3) The person conducting the search shall—

- (a) search or turn out all pockets;
- (b) pass his hand over all clothing; and
- (c) examine any article in the possession of the person searched.

(4) If the person conducting the search suspects that the person searched is concealing any article of the nature described in sub-regulation (1) he shall detain him and as soon as possible refer the matter to the manager or other official authorised by the manager for the purpose who shall not allow such person to enter the mine until he is satisfied that the person has no such article in his possession.

136. After such date as the Chief Inspector may fix for any mine in view of the special circumstances thereof, there shall, in every mine in which a mechanical contrivance for ventilation is used, be provided and maintained in a condition to be put into immediate operation, adequate means for reversing the air current.

#### CHAPTER XI—FENCINGS AND GATES

137. (1) Every entrance to a mine from the surface, and the top and all entrances between the top and the bottom, including the sump (if any), of every working, ventilating, or pumping shaft, and the top of every open excavation, shall be kept properly fenced:

Provided that any fence may be temporarily removed for the purpose of repairs or other operations if proper precautions are used.

(2) Shafts and quarries temporarily or permanently out of use and any place in or about an excavation which is dangerous shall be kept properly fenced.

138. (1) Every entrance to a mine from the surface, by which the mine can be entered on foot, if it is regularly used as a travelling or haulage road, shall be provided with a gate, which shall be kept closed and locked when there are no persons underground in the mine and shall be so constructed as to prevent effectually, when closed, the entrance of persons into the mine.

(2) Every entrance to a mine from the surface, by which the mine can be entered on foot, if it is not regularly used as a travelling or haulage road, shall be permanently closed or kept properly fenced, across the whole width of the entrance.

(3) Gates and fences at entrances to mines shall be so constructed as not to prevent egress in case of emergency.

139. Every entrance to any place in a mine which is not in actual use or course of working or extension, shall be kept properly fenced across the whole width of the entrance, and every such fence shall be so constructed as effectually to prevent persons from entering such place inadvertently.

140. (1) Where any place in a mine is found to be dangerous, all approaches to the place shall be kept securely fenced off so that it cannot be entered inadvertently.

(2) Where it is necessary to prevent danger to the public, every tank or reservoir shall be securely fenced.

141. Every fly-wheel and all exposed and dangerous parts of the machinery of whatever kind used in or about a mine shall be kept securely fenced, guarded or cased in such a manner as may be necessary to prevent accident.

#### CHAPTER XII—MISCELLANEOUS

142. If any person in charge of any machinery, apparatus or appliance used in or about a mine, observes any defect or dangerous flaw therein, he shall immediately report the fact to the manager, under-manager or enginewright, or other responsible official.

143. Every person shall strictly comply with all lawful orders issued by the manager or such other official as may be empowered by the manager to issue the same.

144. No person who has been appointed by the manager in writing for a specific duty shall depute another person to do his work without the sanction of the official to whom he is subordinate; and no such person shall absent himself without having previously obtained permission from such official for the term of his absence or without having been relieved by another person appointed as aforesaid.

145. No person who has been appointed in writing by the manager for a specific duty shall sleep whilst on duty.

146. No person shall negligently or wilfully do anything likely to endanger life or limb in the mine, or negligently or wilfully omit to do anything necessary for the safety of the mine or the persons employed therein.

147. No person shall damage, destroy or improperly interfere with anything provided for or used in the working of the mine.

148. No person shall remove or pass through any fence, or remove or pass any danger-signal, unless specially so authorised by the manager or an officer empowered by the manager in that behalf.

149. A competent person or persons appointed by the manager for the purpose shall keep a correct record of the number of persons going underground daily and returning from underground daily and, if required by the manager, every person shall immediately before going underground and after returning from underground record his presence in accordance with any system approved for the mine by the Chief Inspector or an Inspector.

Provided that this regulation shall not apply in the case of any person appointed to carry out duties of superintendence, management or control.

150. When wagons are about to be moved, persons likely to be endangered shall be warned by the persons in charge of the work.

151. The movement of railway wagons by gravity or manual power shall only be carried on under the direct supervision of a responsible male person who shall either himself control the brake or depute a competent person to do so. Where more wagons than one are being moved at the same time the wagons shall be coupled together. Persons employed in moving wagons shall do so only by pushing from behind the last wagon.

152. If any person required by these regulations or by any rule or bye-law to make any report is unable to write, he shall be present when his report is written for him, and shall have it read over to him, and shall attach his thumb mark to it. The person writing the report shall also sign his name at the end together with a statement that it has been read over to the person for whom it was written.

153. The fees payable under regulations 42 (1), 43 (2), 44 and 71 (2), shall be paid directly into the Treasury or a branch of the Imperial Bank of India, and the receipt of the Treasury or Bank shall be sent to the Chief Inspector along with the application to which the fee relates. An application unaccompanied by such receipt shall be rejected. The fees payable under regulation 50 (3) shall be paid direct into the Treasury or a branch of the Imperial Bank of India, but such payment need not be made until the application to which the fee relates has been accepted.

N.B.—Draft of the Indian Coal Mines Regulations have been prepared by the Government of India in September 1955 and have been forwarded to the different interests concerned for their comments. The draft will be revised afterwards and will be published in the Gazette of India. The draft contains 199 Regulations.

## FORM I—[See Regulation 3 (1)]

All entries to be made in English

Return of Raisings, Despatches and Stock of Coal and Machines in use for the month of ..... 19 .....

## (1) Raisings, Despatches and Stocks

1. Name of Colliery.....
2. Name of Owner.....
3. Name of Colliery loading point.....

## Actuals for Month.

	Stock at beginning of month	Raisings		Colliery Consumption Boilers Domestic etc.	Coal used in Coke making in colliery	Coke Produced	Despatches			Stock at the end of month
		Open Workings	Under Ground				Rail	Road	Tramway	
1	2	3	4	5	6	7	8	9	10	11
Coal—										
Steam										
Rubble										
Slack										
Total Coal										
Hard Coke										
Soft Coke										

## (2) Machines

Coal-cutting Machines				Mechanical Loaders			Conveyors		
No.	Type	Square feet cut	Coal cut Tons	No.	Type	Coal loaded Tons	Type	Length feet	Coal conveyed Tons

Signature.....

Designation.....

Date.....

## NOTES

1. This form shall be made in duplicate and before the 10th of each month in respect of the month immediately preceding submit one to Chief Inspector of Mines in India, DHANBAD, and the other to Coal Commissioner, 1, Council House Street, CALCUTTA.

2. Figures relating to despatches of coal should be in respect of each loading point from which coal of different grades was despatched during the month immediately preceding.

3. All figures will be shown to the nearest ton.

4. Columns 3 and 4 should include all coal brought to the surface or removed from a quarry, no matter to what purpose the coal may be put and they should be separately shown clearly in those sub-heads.

5. In column 5 should be included all coal consumed at or about the colliery in connection with colliery operation including domestic use.

6. In column 6 should be entered all coal used by the colliery owner for the purpose of making coke, no matter what the method of burning may be.

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FORM I A—[See Regulation 3 (r)]

COAL MINES.

*All entries to be made in English*

Monthly Return of Employment and attendance for.....19 .

1. Name of the Mines..... Name of owner.....
2. Address: Place..... District.....  
Province.....
3. Number of working days during the month.....

	Underground		Open Working			Surface	
	Miners and Loaders	Others	Men		Women	Men	Women
			Miners and Loaders	Others			
(a) Number of workers on books on the 1st working day of the month.							
(b) Aggregate number of man-days worked in the month.							
(c) Aggregate number of man-days lost in the month by absence.							

Remarks.

Certified that the information given above is correct.

Signature.....

Designation.....

Date.....

INSTRUCTIONS

(a) Worker means a person "employed" in the mine as defined in clause (d) of Section 3 of the Indian Mines Act, 1923.

(b) Total number of man-days worked is obtained by adding the number of workers working on each relay on each day.

(c) Total number of man-days lost by absence is obtained by adding the number of workers absent on each relay in each working day.

(d) Absence does not include absence due to a strike or maternity leave.

(e) If there be any marked increase or decrease in employment or attendance, please account for it in the Remarks column.



**FORM I B—[See Regulation 3 (1)].****COAL MINES***All entries to be made in English***Monthly Return on Hours of Work and Earnings**

1. Name of the Mines.....Name of the Owner.....
2. Address.....District.....  
Province.....
3. Number of Working days in the month.
4. The number of working days in the first complete working week of the month.

	Average daily attendance during the first complete working week of the month (a)	Aggregate number of man-hours worked during that week (b)	Total cash earnings during that week (c)			
			Basic wages	Allowances		Total
				Dearness Allowance	Other cash payments (d)	

**UNDERGROUND**

Miners and Loaders.

Others.

**OPEN WORKINGS**

Men { Miners and Loaders  
Others.

Women

**SURFACE**

Men

Women

5. Total loss incurred during the week for concessions in foodstuffs and clothing Rs.....(e).

6. Normal Hours of work	Underground	Open Working
	Miners and Loaders	Miners and Loaders
1st relay		
2nd relay		
3rd relay		

**7. Remarks. (f)**

Certified that the information given above is correct.

Signature.....

Designation.....

Date.....

**INSTRUCTIONS**

(a) Average daily attendance is obtained by dividing the aggregate number of attendances in all the relays on all days during the period by the number of working days. Absence in hours only need not be considered. Days on which, the undertaking was closed for whatever cause, should not be treated as working days.

(b) Aggregate number of man-hours worked during the week is obtained by adding up the number of man-hours worked in all relays on all days.

(c) Include all cash payments, deductions and taxes payable and deducted, if any.

(d) This should include Bonuses and other cash payments if any earned and paid more or less regularly during the week. Annual and as other Bonuses, not related to the week should be excluded even if they are paid during the week.

(e) Please furnish separately the quantity of and price at which the various items are supplied.

(f) If there is any marked increase or decrease in earnings or hours of work as compared to the previous quarters please account for it in the Remarks column.

SCHEDULE I.

FORM II—[See Regulation 3 (2).]

*Annual return for the year ending on the 31st December, 19 .*

1. Name of mine.
2. Postal address of mine.
3. Date of opening.
4. Date of closing (if closed).
5. Situation of mine. { District.  
{ Province.
6. { Name of owner.  
{ Postal address of owner.
7. { Name of Managing Agents (if any).  
{ Postal address of Managing Agents (if any).
8. { Name of Agent (if any), as defined in Section 3(a) of the Indian Mines Act.  
{ Postal address of Agent.
9. { Name of Manager.  
{ Postal address of Manager.
10. Means by which coal is raised from the mines, *i.e.*, hand labour, mechanical or electrical power.

FORM II-A—[See Regulation 3 (4).]

Week selected by the Chief Inspector—February.....to.....19 .

Day to which this return relates—February.....19 .

PART I.

*Total number of persons attending work on the day shown above.*

- | Classification.  | No. of persons. |
|--|-----------------|
| A.—Underground ( <i>i.e.</i> , places lying beneath the superjacent ground).<br>Males.   |                 |
| B.—Open working [ <i>i.e.</i> , in workings of the mine (including quarries) which are not situated beneath the superjacent ground].<br>I. Males.<br>II. Females.  |                 |
| C.—Surface ( <i>i.e.</i> , not in the workings of the mine, including all subordinate officials and persons employed on sidings, loading wharves, private railways and surface tramways and also in carting).<br>I. Males.<br>II. Females. |                 |

PART II.

*Total number of persons who ordinarily work in the mine but were prevented by sickness or other cause from attending work on the day shown above.*

- | Classification.  | No. of persons. |
|--|-----------------|
| A.—Underground ( <i>i.e.</i> , in the places lying beneath the superjacent ground).<br>Males.  |                 |
| B.—Open workings [ <i>i.e.</i> , in workings of the mine (including quarries) which are not situated beneath the superjacent ground].<br>I. Males.<br>II. Females.   |                 |
| C.—Surface ( <i>i.e.</i> , not in the workings of the mine, including all subordinate officials and persons employed on sidings, loading wharves, private railways and surface tramways and also in carting).<br>I. Males.<br>II. Females. |                 |

I certify that the total number of persons attending work was not higher on any other day of the week selected by the Chief Inspector.

\_\_\_\_\_  
*Owner, Agent or Manager.*

Dated the.....19 .

NOTE.—Where males are employed in both underground and open workings, the figures relating to them should be included under Section A.

Name of Mine.

Name of Owner.

Postal address of Owner.

Signature of Owner, Agent or Manager.

Date.

**FORM III**—[See Regulation 3 (2).]  
*Persons employed during the year ending on 31st December 19 , and wages paid  
 for work done in December 19 .*

Classification	Aggregate number of daily attendances during the year of persons permanently and temporarily employed	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6
1	2	3	4	5	6	7	8
<b>A.—Underground (i.e., in places lying beneath the superjacent ground).</b>							
<b>Males—</b>							
Overman and/or sirdars . . . . .							
Coal Cutters . . . . .							
Loaders . . . . .							
Skilled labour not included above . . . . .							
Unskilled labour not included above . . . . .							
<b>Total (Males)</b> . . . . .							
<b>B.—Open workings [i.e., in workings of the mine (including quarries) which are not situated beneath the superjacent ground].</b>							

FORM III—continued.

Classification	Aggregate number of daily attendances during the year of persons permanently and temporarily employed	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6
I.—Males—	2	3	4	5	6	7	8
Overmen and/or sirdars							
Coal Cutters							
Loaders							
Skilled labour not included above							
Unskilled labour not included above							
Total (Males)							
II. Females							
C.—Surface (i.e., not in the working of the mine, including all subordinate officials and persons employed on sidings, loading wharves, private railways and surface tramways and also in carting).							
I.—Males—							
Clerical and supervising staff (excluding the superior supervising staff).							
Skilled labour							
Unskilled labour							
Total (Males)							
II. Females							

NOTE (1).—Where males are employed in both underground and open workings, the figures relating to them should be included under section A.  
 NOTE (2).—Where workmen are paid through contractors, the sums entered in column 7 should be the sums paid by the contractors to the workmen, so far as these can be ascertained.

**FORM IV—[See Regulation 3 (2).]**  
**Accidents and Prosecutions**

Number of separate accidents* reported during the year.			Number of persons		Number of prosecutions instituted by the management, with the sections and rules under which the prosecutions were instituted.	Number of persons convicted with the sections and rules under which the convictions were obtained.
Fatal	Serious	Total	Killed	Seriously injured		
1	2	3	4	5	6	7

\*Accidents, which were reported as serious accidents but resulted fatally, should be entered as fatal accidents.

**FORM V—[See Regulation 3 (2).]**  
**Epidemic Diseases.**

Name of disease †	Date of appearance	Date of disappearance	Number of cases	Number of deaths
Cholera	.	.	.	.
Plague	.	.	.	.
Small-Pox	.	.	.	.
Influenza	.	.	.	.

† Figures for any other specified disease which has been epidemic at the mine should be entered in this form.

FORM VI—[See Regulation 3 (2).]

*Type and aggregate horse-power of electrical apparatus.*

1.—System of supply (whether continuous current or alternating current)—

Voltage or supply	...	...	...	...	...
Periodicity	...	...	...	...	...
Source of supply	...	...	...	...	...

2.—Voltage at which current is used for—

Lighting	...	...	...	...	...
Power	...	...	...	...	...

3.—Aggregate horse-power of motors installed on surface for—

Winding	...	...	...	...	...
Ventilation	...	...	...	...	...
Haulage	...	...	...	...	...
Coal washing or screening	...	...	...	...	...
Miscellaneous	...	...	...	...	...
Total horse-power	...	...	...	...	...

4.—Aggregate horse-power of motors installed underground for—

Haulage	...	...	...	...	...
Pumping	...	...	...	...	...
Portable machinery	...	...	...	...	...
Miscellaneous	...	...	...	...	...
Total horse-power	...	...	...	...	...

5.—Total horse-power (addition of 3 and 4)

FORM VII—[See Regulation 3 (2).]

Explosives, safety lamps, mechanical ventilators and coal-cutting

Explosives.	Name of explosives	Quantity used in lb.	Number of detonators used	Name of safety lamps.	Safety lamps			Mechanical ventilators			Coal cutting machines.		Tonnage of coal cut
		No. of safety lamps and method of locking.			Screw	Lead rivet	Magnetic	Name of mechanical ventilator	Average total quantity of air produced per minute	Water gauge obtained	Name and number of each type separately.	Power used, i.e., electricity or compressed air	

## FORM VIII—[See Regulation 3 (2).]

Output for year ending on the 31st December 19 . . .

1 Coal, including rubble, slack and dust.	2 Tons.	3 Tons	4 Rs.	5 Tons	6 Tons.	7 Tons	8 Tons.	9 Tons.	10 Tons.
	Opening Stocks on 1st January 19 .	Raising (including colliery consumption & coal used for coke-making)	Total value of raisings ("value", means, and should be calculated upon actual or estimated selling price into wagons at the mine)	Total of columns 2 and 3	Despatches	Colliery consumption (exclusive of coal used for coke-making)	Coal delivered for colliery	Closing stock on 31st December, 19 .	Total of columns 6, 7, 8, and 9

Coal despatched to coke factories.

Tons

NOTE.—The total in column 5 must be the same as the total in Column 10. The figures should be in tons and rupees, omitting cwts. and annas.

Coke (hard) Coke (soft)	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Tons	Rs.
	Opening stocks	Coke made	Total of columns 1 and 2	Coke despatched	Colliery consumption	Closing stocks	Total of columns 5 and 6	Total value of coke made ("value", means, and should be calculated, upon actual or estimated selling price into wagons at the mine)	
	1	2	3	4	5	6	7	8	

NOTE.—The total in column 3 must be the same as the total in column 7. The figures should be in tons and rupees, omitting cwts. and annas.

Signature of Owner, Agent or Manager.  
Date of signature.

(If the form is signed by Managing Agents the words "for owner", should be added)



# MINES LABOUR CODE

\*[FORM IX—(See Regulation 13.)

## NOTICE OF OCCURRENCE

From .....

Dated.....19.....

To

1. The Chief Inspector of Mines, Dhanbad, P.O., District Manbhum.
2. The District Magistrate/\*District Collector  
The Sub-Divisional Magistrate/\*Revenue Divisional Officer
3. The Coal Mines Labour Welfare Commissioner, Dhanbad, P.O., District Manbhum.

Sir,

I have to furnish the following particulars of a fatal accident/a serious accident/a dangerous occurrence which occurred at the.....mine.

1.	Situation of mine (Village, thana, District & State)	Mineral worked	Name and postal address of owner		
2.	Date and hour of occurrence	Place and location in mine		Number of persons Killed      Seriously injured	
3.	Classification of occurrence †		Cause and description		
4	(a) Names of persons killed	Nature of employment	Age	Sex	Nature of injury and if fatal, cause of death
(b) Names of persons injured					

Yours faithfully,

Owner/Agent/Manager

† Under one or other of the following heads, namely:—

- (1) Explosions and ignitions of inflammable gas and/or coal dust;
- (2) Falls of ground, (a) Falls of roof; (b) Falls of side, walls or face;
- (3) Haulage, (a) above ground; (b) below ground;
- (4) In shafts, (a) overwinding of cages or other means of conveyance; (b) breakage of ropes, chains or drawgear; (c) while ascending or descending by machinery; (d) by falling; (e) by falling objects (excluding falls of ground); (f) miscellaneous;

\* This Form was substituted by the Ministry of Labour Notification No. S.R.O. 1859 dated the 23rd August, 1953.

\*In the State of Madras only.

- (5) Explosives;
- (6) Machinery, (a) above ground; (b) below ground;
- (7) Suffocation by gases;
- (8) Irruption of water;
- (9) Premature collapse of workings;
- (10) Outbreak of fire, or spontaneous heating;
- (11) At railway sidings belonging to the mine;
- (12) Electricity; and
- (13) Miscellaneous, (a) above ground; (b) below ground.]

4[FORM X—(See Regulation 14A.)

NOTICE OF DISEASE NOTIFIED UNDER SECTION 25

From

To

1. The Chief Inspector of Mines, Dhanbad P. O., District Manbhum.
2. The District Magistrate/\*District Collector  
The Sub-Divisional Magistrate/\*Revenue Divisional Officer.

Dated.....19.....

Sir,

I have to furnish the following particulars with respect to an occupational disease contracted by a person employed in the \_\_\_\_\_ mine.

1. Name of owner, agent or manager\_\_\_\_\_
2. Situation and postal address of mine\_\_\_\_\_
3. Mineral worked\_\_\_\_\_
4. Name and postal address of owner\_\_\_\_\_

Particulars of persons affected:

5. Name (in Block Capitals)\_\_\_\_\_
6. Caste or surname\_\_\_\_\_
7. Permanent address:—Village\_\_\_\_\_, Thana—  
District\_\_\_\_\_, State—
8. Sex\_\_\_\_\_
9. Date of birth or age—
10. Occupation\_\_\_\_\_
11. Date of commencement of employment\_\_\_\_\_

Particulars of diseases, etc.:

12. Nature of disease from which the person is suffering (state stage)—
13. Date of detection of disease\_\_\_\_\_
14. Name and address of Medical Practitioner suspecting disease—

Date of signature\_\_\_\_\_

Signature\_\_\_\_\_

Owner/Agent/Manager.]

<sup>4</sup> Inserted, *ibid*.

\*In the State of Madras only.

## SCHEDULE II—[See Regulation 15 (3A).]

## CODE OF SIGNS

BRICK, STONE, OR CONCRETE VENTILATION STOPPINGS



FIRE DAMPS OR SEALS ... ..



WATER DAMS ... ..



DOORS ... ..



REGULATORS ... ..



AIR CROSSINGS ... ..



TELEPHONES ... ..



UNDERGROUND AMBULANCE STATION IN RED

DIRECTION OF AIR CURRENT



## SCHEDULE III—[See Regulation 43 (1A).]

## FORM OF APPLICATION FOR REGISTRATION

1. Name, nationality and address of the applicant.
2. Age.
3. Full details of qualifications and previous mining experience.
4. Name of the mine or mines in the Indian Dominion in which the training is desired.
5. The capacity or capacities in which it is proposed to obtain the training.
6. Whether the owner, agent or manager of the mine has agreed to the training.
7. Date on which it is proposed to commence training.
8. Any other relevant information which the applicant may like to mention.

Date

Signature of applicant.

## COAL MINES (TEMPORARY) REGULATIONS, 1955<sup>1</sup>

Whereas the Central Government is satisfied that for the prevention of apprehended danger and the speedy remedy of conditions likely to cause danger it is necessary, in making regulations under clause (i) and clauses (k) to (s) excluding clause (r) of section 57 of the Mines Act, 1952 (XXXV of 1952), to dispense with the delay that would result from previous publication and previous reference to Mining Boards under sub-sections (1), (2) and (3) of section 59 of the said Act;

Now, therefore, in exercise of the powers conferred by section 60, read with the aforesaid provisions of section 57 of the said Act, the Central Government hereby makes the following Regulations, namely:—

1. (1) These Regulations may be called the Coal Mines (Temporary) Regulations, 1955.  
(2) They extend to the whole of India except the State of Jammu and Kashmir.  
(3) They apply only in respect of coal mines.
2. In these Regulations, unless the context otherwise requires—
  - (a) "additional precautions", in relation to any matter, means the precautions required to be observed under these regulations in addition to those, if any, required to be observed under the principal regulations in relation to that matter;
  - (b) "principal regulations" means the Indian Coal Mines Regulations, 1926.
3. In opencast workings, the following additional precautions shall be observed, namely:—
  - (1) in alluvial soil, morum, gravel, clay, debris or other similar ground—
    - (a) the sides shall be kept sloped at an angle of safety not exceeding 45 degrees from the horizontal;
    - (b) the sides shall be kept stepped and the height of every step shall not exceed 5 feet and the breadth shall be not less than the height; and
    - (c) where any pillar is left *in situ* for the purpose of measurement, its height shall not exceed 8 feet, and if the height of any such pillar exceeds 4 feet, its base shall be not less than 5 feet in diameter.
  - (2) In coal, the sides shall either be kept sloped at an angle of safety not exceeding 45 degrees from the horizontal, or the sides shall be kept stepped and the height of any step shall not exceed 10 feet and the breadth shall be not less than the height;

Provided that the Chief Inspector may, by an order in writing and subject to such conditions as he may specify, exempt from the operation of clause (1) or clause (2) any working where in his opinion, special difficulties exist and they make compliance with these precautions not reasonably practicable.

  - (3) No person shall undercut any face or side so as to cause any overhanging, or cause or permit such undercutting.
  - (4) No person shall work or travel over any side or face having an inclination exceeding 45 degrees from the horizontal, or on any ledge or footpath less than 5 feet wide from which he is likely to fall more than 10 feet, unless he is protected by guard rails or ropes suitably fixed and sufficiently strong to prevent him from falling.
4. For the purpose of ensuring safety while raising or lowering persons or materials in shafts in a mine by means of machinery, the following additional precautions shall be observed, namely:—

(1) (a) Every winding rope in a shaft exceeding 100 feet in length when measured along the plane of the shaft shall be made of cold-drawn steel wires, and the diameters of the sheaves or drums of the winding apparatus and of the other pulleys and sheaves used in connection with winding shall, unless otherwise permitted by an order in writing of the Chief Inspector, be not less than 100 times the diameter of the rope. The grooves of such sheaves or pulleys shall be suited to the diameter of such rope.

(b) No rope other than a rope of a non-spinning type shall be used in any shaft, including a shaft in the course of sinking, where persons are lowered or raised and where guides are not provided.

(c) No rope in use for winding shall subtend, in any position, an angle more than one and a half degrees on either direction with the plane of a sheave or pulley used in connection with the rope.

<sup>1</sup> These Regulations were published under the Ministry of Labour Notification No. S.R.O. 3422 dated the 25th October, 1955 in the *Gazette of India*, Part II—Section 3 dated the 5th November, 1955, p. 2169.

(d) Every sheave or pulley used in connection with winding shall rotate, while in motion, in a true vertical plane.

(2) (a) For every rope in use or intended for use for winding purposes, a record showing its quality, construction, size, breaking load, the names of the manufacturer and supplier, and the diameters of the drums, sheaves and pulleys used in connection with the rope, shall be maintained in a bound book kept for the purpose, pages of which shall be serially numbered. All entries therein shall be made and signed by a competent person authorised in writing by the manager for the purpose and shall be countersigned and dated by manager.

(b) A new rope for which a test certificate as to the amount of its breaking load is not available, shall not be used unless a portion thereof, not less than 10 feet in length has been cut off and tested in a laboratory, institution or test house recognised by the Central Government for the purpose: Provided that notwithstanding anything contained in this sub-clause, the Chief Inspector may, by an order in writing, prohibit the use of any rope or type of rope for winding purposes.

(c) No rope, the breaking load of which at any one point therein is less than 10 times the maximum static load on it when the cage or other means of conveyance attached to the end of the rope is at the lowest working point, shall be used or continued to be used, unless an exemption in writing has been obtained from the Chief Inspector. The cappel shall not be attached to the winding rope by rivets passing through the rope.

(3) No rope which has been spliced shall be used in a shaft for winding purposes.

(4) No winding rope in which any of the wires is found cracked or broken shall be used in a shaft in which persons are raised or lowered.

(5) No winding rope which has been in use for more than three and a half years shall be used in a shaft in which persons are raised or lowered except with the written permission of an Inspector:

Provided that where an Inspector is of opinion that any winding rope has become unsafe for use in a shaft for lowering or raising persons before the expiry of such period, he may, by an order in writing, require the installation of a new rope in the place of such rope in the shaft:

Provided further that where an Inspector is satisfied that, due to sparing use, any such rope is in good condition even after the expiry of the said period, he may, by an order in writing and subject to such conditions as he may specify, allow the use of such rope for a longer period. An appeal against the order of the Inspector under the first provision may be preferred to the Chief Inspector whose decision thereon shall be final.

(6) (a) Once at least in every six months, all detaching hooks in general use shall be annealed or given other proper heat-treatment, and shall be thoroughly examined by a competent person appointed in writing by the manager for the purpose: Provided that the Chief Inspector may, by an order in writing and subject to such conditions as he may specify, exempt from the foregoing requirements such detaching hooks as are made of a steel which does not require heat-treatment.

(b) Notwithstanding anything contained in regulation 66 of the principal regulations—

(i) all detaching hooks in general use shall be dismantled, cleaned and refitted once at least in every three months; and

(ii) all detaching plates and bells in general use shall be tested monthly by callipers or gauges.

(c) The result of each such annealing, heat-treatment, examination, or test shall forthwith be recorded by the competent person in the book maintained in pursuance of regulation 66 of the principal regulations.

5. For the purpose of ensuring against danger due to irruption or inrush of water or other liquid matter into the workings of a mine or part thereof, the following additional precautions shall be observed, namely:—

(1) Every application for permission under regulation 72B of the principal regulations shall be accompanied by two copies of plans, and sections showing the existing positions of the workings of the mine, the proposed layout of workings, the depth of the workings from the surface, all faults, dykes and other geological disturbances and such other particulars as may affect the safety of the mine or of the persons employed therein.

(2) Notwithstanding anything contained in regulation 74 of the principal regulations, no working which has approached within a distance of 150 feet of any disused or abandoned workings (not being workings which have been examined and found to be free from accumulation of water or other liquid matter), whether in the same mine or in an adjoining mine, shall be extended further except with the prior permission in writing of the Chief Inspector and subject to such conditions as he may specify.

(3) Notwithstanding anything contained in regulation 74 of the principal regulations, if any seepage of water is noticed in any working approaching but not within a distance of 150 feet of any disused or abandoned workings (not being workings which have been examined and found to be free from accumulation of water or other liquid matter), whether in the same mine or in an adjoining mine, such working shall immediately be stopped and the Chief Inspector and the Inspector of the Circle shall forthwith be informed about the occurrence. Such working shall not be extended further except with the prior permission in writing of the Chief Inspector and subject to such conditions as he may specify.

*Explanation.*—For the purpose of clauses (2) and (3), the distance between the said workings shall mean the minimum distance measured in any direction whether horizontal, vertical or inclined.

(4) Every application for permission under clause (2) shall be accompanied by two copies of plans and sections showing the outline of such disused or abandoned workings in relation to the workings which are approaching the said workings and such other information as may be available in respect of the said workings.

(5) The precautions laid down in regulation 74 of the principal regulations shall be carried out under the direct supervision of a competent person authorised in writing by the manager for the purpose.

(6) Where in any mine it is proposed to construct a reservoir, dam or any other structure to withstand the pressure of water or other material which will flow when wet, or to control the inrush of water, the owner, agent or manager of the mine shall submit to the Inspector a notice in writing (accompanied by plans and sections showing the proposed design and other details of construction) at least 10 days before the work of construction is commenced: Provided that where the safety of the mine or of the persons employed therein is seriously threatened, it would be sufficient if in lieu of such notice, due information and plans and sections are sent to the Inspector as soon as the work is commenced.

(7) At every mine to which sub-regulations (1), (2), (3) and (4) of regulation 15 of the principal regulations apply:—

(a) there shall be a permanent bench mark established on the surface; and all levels taken above and below ground shall be referred to a plane in relation to the bench mark. The position of the bench mark together with its height above Mean Sea Level shall be shown on the plan of the workings of the mine;

(b) there shall also be shown on such plan the reduced levels, in relation to the bench mark, at a sufficient number of points situated in the workings of the mine, together with a sufficient number of surface contour lines drawn at vertical intervals not exceeding 10 feet, so as to enable the approximate depth of the workings of the mine at any point within the leasehold to be determined; and

(c) Where a river or stream flows within the boundaries of or in the vicinity of a mine, there shall also be shown on such plan the highest known flood level in relation to that river or stream; and the plan shall carry a certificate by the manager to the effect that the level so shown is correct.

*Explanation.*—For the purposes of sub-clause (c), a 'river' means any stream of water with its banks extending upto the highest known flood level.

6. For the purpose of ensuring the stability of surface and safeguarding against premature collapse, the following additional precautions shall be observed, namely:—

(1) No working either during the development or depillaring shall be made in a mine within 150 feet of any public road, building or other works not belonging to the owner of the mine, except with the permission in writing of the Chief Inspector and in accordance with such restrictions as he may impose.

(2) For the purpose of regulation 80(3) of the principal regulations, two or more seams lying within 30 feet of each other shall be considered as one and the same seam.

(3) In any mine or part thereof, no extraction or reduction of pillars shall be commenced except with the permission in writing of the Chief Inspector, and no such extraction or reduction shall be carried out except in accordance with such conditions as he may specify.

(4) Every application for permission under clause (1) shall be accompanied by two copies of plans and sections specifying the positions of the workings of the mine in relation to the public road, buildings or other works not belonging to the owner of the mine, the manner in which it is proposed to carry out the intended new operations and the limits to which it is proposed to carry the said operations.

**Explanation.**—For the purposes of clauses (1) and (4), "Public Road" means a road maintained for public use by Government or any local authority.

7. For the purpose of ensuring against an outbreak of fire or a spread of fire in a mine, the following additional precautions shall be observed, namely—

(1) Before the commencement of extraction or reduction of pillars in any mine or part thereof there shall be provided such number of fire dams or stoppings as may be necessary to ensure the speedy isolation and control of fire in the event of spontaneous heating or outbreak of fire taking place in the mine or part thereof: Provided that the Chief Inspector may, by an order in writing and to such extent and subject to such conditions as he may specify, relax the provisions of clause (1) in any case where other adequate measures have been taken to achieve the object in view.

(2) Every fire dam or stopping referred to in (1) shall be constructed of suitable incombustible materials; and in the case of a mine where safety lamps are required to be used in pursuance of regulation 123(1) of the principal regulations, it shall also be of such sufficient strength as to be capable of withstanding the force of an explosion.

(3) If any dispute arises as to whether the fire dams or stoppings provided in a mine or part thereof are adequate in number or of sufficient strength or suitably constructed, it shall be referred to the Chief Inspector whose decision thereon shall be final.

(4) In every mine, all wild growths of vegetation, whether green or dry, shall be constantly kept clear of all broken ground and opencast workings connected with any underground workings or goaves (not being goaves which have been kept fully packed with incombustible material) in order to prevent any accidental fire in the wild growths travelling underground: Provided that the Chief Inspector may, by an order in writing and to such extent and subject to such conditions as he may specify, relax the provisions of this clause in any case where in his opinion special circumstances exist and they make compliance with the said precautions not necessary.

8. For the purpose of ensuring safety in the use of explosives in a mine, the following additional precautions shall be observed, namely:—

(1) Before a shot is fired at any place in an opencast working, the shot-firer shall give sufficient warning, by an efficient system of signals or by other means approved by the manager of the mine, over the entire area of the danger-zone, that is to say, an area of ground falling within a radius of 800 feet from the place of firing.

(2) The shot-firer shall also see that all persons within the danger-zone have taken proper shelter; and he shall himself take adequate shelter.

(3) Where in any mine, an Inspector is of opinion that, owing to the special nature of the workings of the mine or part thereof, the use of explosives other than 'permitted explosives' as defined in clause (e) of regulation 2 of the principal regulation is likely to endanger the safety of persons employed in the mine, he may, by an order in writing, direct the use of 'permitted explosives' in the mine or part.

(4) The manager of every mine where explosives are used, shall fix from time to time the maximum number of shots which each shot-firer may fire in any one shift; and such number shall be based upon—

(a) the time normally required to prepare and fire a shot in accordance with the provisions laid down in the principal regulations;

(b) the time required for that shot-firer to move between places where shots are fired;

(c) the assistance, if any, available to him in the performance of his said duties; and

(d) any other duties assigned to him, whether statutory or otherwise:

Provided that where an Inspector is of opinion that it is necessary for the safety of the persons employed in or about the mine that the number of shots so fired shall be reduced, he may, by an order in writing, require the manager to fix a lower maximum number of shots which may be fired in any one shift. In the event of any dispute regarding the lower maximum so fixed, it shall be referred to the Chief Inspector whose decision thereon shall be final.

(5) (a) No person whose wages depend on the amount of minerals obtained by firing shots shall be appointed to perform the duties of a shot-firer in any mine.

(b) Notwithstanding anything contained in regulation 108(1) of the principal regulations, no shot shall be stemmed or fired in any mine except by a person qualified to fire shots in pursuance of regulation 108(3) of the principal regulations.

(6) Every shot-firer shall, immediately after the end of his shift record in a bound book kept for the purpose the pages of which shall be serially numbered, the quantity of explosives taken, used and returned, the places where shots were fired and the number of

shots fired by him including misfires, if any; and he shall sign every such report and date his signature.

9. For the purpose of securing adequate ventilation in the workings of a mine or part thereof, the following additional precautions shall be observed, namely:—

(1) For the purpose of regulation 121 of the principal regulations, a place shall not be deemed to be in a safe state for persons working or passing therein, if the air contains either less than 19 per cent of oxygen or more than 0.5 per cent of carbon dioxide or any noxious gas present in quantity likely to affect the health of any person; and such place shall not be deemed to be normally kept free from inflammable gas if the percentage of inflammable gas at any point in that place exceeds one and a quarter.

(2) The ventilation required to be constantly produced in any mine in pursuance of regulation 121 of the principal regulations shall also be adequate to prevent such excessive rise of temperature of humidity as may be harmful to the health of persons employed in the mine. If any dispute arises whether the ventilation in a mine or part thereof is adequate or not, it shall be referred to the Chief Inspector whose decision thereon shall be final.

(3) If any alteration is made in the arrangements for the ventilation of any mine in which the quantity of air is required to be measured in pursuance of regulation 122 of the principal regulations, which substantially affects or is likely to affect the ventilation of the mine, the quantity of air passing through each ventilating district shall be measured as soon as practicable after the making of such alteration. Every such alteration shall be reported to the Inspector within seven days.

(4) Particulars of air measurements taken under clause (3) shall be recorded forthwith in the book required to be maintained in pursuance of regulation 122 of the principal regulations.

(5) In any mine where a mechanical ventilator is in use—

(a) every gallery which is a connection between a main intake airway and a main return airway shall, unless it is kept effectively walled off, be provided with two doors so spaced that whenever one door is opened, the other door serving the same purpose can be kept shut;

(b) every ventilation door shall be self-closing and whenever opened, it shall be closed as soon as possible; it shall not be proposed or fixed so as to remain open, and if the door is required to be frequently kept open for the passage of men or materials there shall be a door attendant throughout the shift. Every such door, if not in use, shall be taken off its hinges and placed in a position in which it will not cause any obstruction to the air current; and

(c) every ventilation door, sheet or brattice shall be maintained in efficient working order and good repair.

(6) In a mine in which the use of safety lamps is for the time being required by or in pursuance of regulation 123 of the principal regulation and where a mechanical ventilator is installed on the surface, no mechanical ventilator shall be installed below ground unless and until the manager of the mine is satisfied as a result of a survey of the ventilation of every part of the mine liable to be affected, that such installation is necessary or expedient for the proper ventilation of the mine and that it should be installed.

*Explanation.*—The shifting of a mechanical ventilating district to another shall be deemed to be an installation of a fan for the purpose of this clause.

(7) Notice of every such installation together with particulars of the survey aforesaid, shall be sent forthwith to the Inspector.

(8) The installation and maintenance of every mechanical ventilator installed below ground shall be supervised and controlled by a competent person appointed by the manager for the purpose; and no such ventilator shall be started, stopped, removed or in any way altered, repaired or interfered with except by or on the authority of the official in charge of the mine. Particulars of every stoppage of a mechanical ventilator below ground shall be recorded with the least possible delay in a bound book kept for the purpose the pages of which shall be serially numbered.

(9) An Inspector may, at any time, by an order in writing and for reasons which he may specify therein prohibit the use of any fan installed below ground. An appeal against any such order may be preferred to the Chief Inspector whose decision thereon shall be final.

(10) Whenever there is any interruption of ventilation by the stoppage of any mechanical ventilator installed below ground, the official in charge of the mine or part thereof shall immediately take precautionary measures (including withdrawal of men, if necessary) against dangers that may arise out of non-compliance with the provisions of regulation 122



of the principal regulations read with clause (1) of this regulation, until the ventilation in the mine or part thereof is restored.

10. For ensuring proper lighting in mines, the following additional precautions shall be observed, namely:—

(1) Whenever electricity is available in a mine, efficient and suitable general lighting shall be maintained at all times—

- (a) at the top and bottom of every self-acting incline;
- (b) at every place at which tubs are regularly attached and detached from a haulage rope;
- (c) at every room or place made to house any engine, motor or other apparatus;
- (d) at every place where any pillar is under extraction; and
- (e) in every travelling road:

Provided that nothing in this sub-regulation shall be deemed to authorise any contravention of the provisions of regulation 124 of the principal regulations and any of the provisions of the rules of the Indian Electricity Rules, 1937.

(2) In every mine where 20 or more persons are employed below ground at any one time, the roof and sides of the places specified in sub-clauses (a), (b), (c) and (e) of clause (1) shall be kept completely and effectively whitewashed.

(3) Every official in charge of a mine or part thereof, and every competent person appointed under regulation 25(1) of the principal regulations, shall, during the time when he is so employed below ground, have in addition to any flame safety lamp which he is required to use in pursuance of the principal regulations, a portable lamp or light of adequate lighting performance so as to enable him to perform his duties in a proper and thorough manner. Every such lamp or light shall be provided by the owner of the mine. If any dispute arises as to whether any such lamp or light is of adequate lighting performance or not, it shall be referred to the Chief Inspector whose decision thereon shall be final.

11. For ensuring safety against dangers from dry coal dust in the workings of a mine or part thereof below ground the following additional precautions shall be observed, namely:—

(1) In every part of a mine which is not naturally wet throughout, the floor, roof and sides of the workings shall, as far as practicable, be kept clear of any accumulation of coal dust.

(2) All airways, haulage, trammings, conveyor and travelling roads, which are not naturally wet throughout, shall be treated in one of the following ways, namely:—

- (a) they shall be treated with fine incombustible dust in such manner and at such intervals as will ensure that the dust on the floor, roof and sides throughout shall always consist of a mixture containing not less than 70 per cent of incombustible matter; or
- (b) they shall be treated with water in such manner and at such intervals as will ensure that the dust on the floor, roof and sides throughout is always combined with 30 per cent by weight of water in intimate mixture; or
- (c) they shall be treated in such manner as the Inspector may approve.

(3) The Inspector may, by an order in writing, also require the observance of the precautions laid down in clause (2) in all accessible parts of the mine if in his opinion they are necessary for ensuring the safety of the persons employed in the mine. An appeal against any such order may be preferred to the Chief Inspector whose decision thereon shall be final.

(4) The incombustible dust used for the purpose of this regulation shall be—

- (a) free from any material containing injurious free silica; and
- (b) of such fineness and character that it is readily dispersible into the air, and that when in use in places which are not directly wetted by water from the strata, it does not cake but is dispersed into the air when blown upon with the mouth or by a suitable appliance.

No such incombustible dust shall continue to be used if it is found by tests, which shall be carried out regularly, not to comply with the foregoing requirements.

(5) For the purpose of ensuring adequate treatment of coal dust in places specified in clause (2) samples of the dust shall be systematically collected in a manner approved by the Chief Inspector from all such airways and roads, and tested and analysed once at least in every calendar month. The result of every such test and analysis shall be recorded in a bound book kept for the purpose the pages of which shall be serially numbered.

12. The following provisions shall have effect with respect to every travelling road in a mine or part thereof which is provided in pursuance of regulation 96 of the principal regulations, namely:—

(1) Except with the permission in writing of the Chief Inspector, no travelling road shall be less than 6 feet high and 4 feet wide.

(2) The travelling road shall be clearly indicated, either on the roof or on any side, by a continuous band of whitewash at least 12 inches wide.

(3) Except for the purpose of making an inspection or effecting repairs, no person shall travel to or from his working place except by means of the travelling road so provided.

13. (1) A competent person appointed in writing by the manager for the purpose shall, once at least in every week, examine thoroughly the state of all machinery, gear and other appliances of the mine, which are actually in use, whether above ground, below ground or in open-cast workings.

(2) The result of every such examination shall be recorded without delay in a bound book kept at the mine for the purpose, the pages of which shall be serially numbered and shall be signed and dated by the person who made the examination.

14. If any dispute arises whether any fencing or gate provided in a mine or part thereof in pursuance of any of the principal regulations is adequate or not, it shall be referred to the Chief Inspector whose decision thereon shall be final.

## INDIAN METALLIFEROUS MINES REGULATIONS, 1926

### Arrangement of Paragraphs

PREAMBLE AND DEFINITIONS.

CHAPTER I.—Returns, Notices and Records.

CHAPTER II.—Plans.

CHAPTER III.—Management.

CHAPTER IV.—Shafts and Outlets.

CHAPTER V.—Raising and Lowering Persons or Materials.

CHAPTER VI.—Mine Workings.

CHAPTER VII.—Ladderways.

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CHAPTER IX.—Miscellaneous.

SCHEDULE.—Forms.

## INDIAN METALLIFEROUS MINES REGULATIONS, 1926<sup>1</sup>

In exercise of the powers conferred by section 29 of the Indian Mines Act, 1923 (IV of 1923), and in supersession of the rules published with the notifications by the Government of India in the Department of Commerce and Industry, No. 11793-103, dated the 30th December 1908, and No. 6436-152, dated the 2nd September 1911—and of all notifications amending those rules, the Central Government is pleased to make the following regulations, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely:—

### Regulations for All Mines except Coal Mines

1. (1) These Regulations may be called the Indian Metalliferous Mines Regulations, 1926.

(2) They extend to the whole of India, except the State of Jammu and Kashmir but do not apply to the gold mines in the State of Mysore.

(3) They shall apply to every mine of whatever description other than a coal or oil mine

2. In these regulations, unless there is anything repugnant in the subject or context—

(a) "the Act" means the Indian Mines Act, 1923;

<sup>1</sup> These Regulations were published under the Government of India, Department of Industries and Labour Notification No. M-1055(2) dated the 8th September, 1926. New Draft containing 190 Regulations is being published for obtaining comments.

(b) "the District Magistrate" in relation to any mine, means the District Magistrate of the district in which the mine is situated:

Provided that in the case of a mine which is situated partly in one district and partly in another, the District Magistrate for the purposes of these regulations shall be the District Magistrate authorised in this behalf by the Central Government.

(c) "Form" means a Form as set out in the Schedule:

(d) "Schedule" means the Schedule to these regulations.

#### CHAPTER I—RETURNS, NOTICES AND RECORDS

3. (1) On or before the 21st day of January in each year the owner, agent or manager of every mine shall forward to the District Magistrate and to the Chief Inspector annual returns in respect of the preceding year in the following Forms:—

Mica Mines	...	In Forms I, II, III, IV, VI and VII.
Mines other than Mica Mines	...	In Forms I, II, III, IV, V, VI and VIII.

(2) If any mine is abandoned or the working of any mine has been discontinued over a period exceeding three months or if a change occurs in the ownership of any mine the returns required by sub-regulation (1) shall be submitted, within one month from the date of abandonment or change of ownership or within four months from the date of discontinuance:

Provided that the Chief Inspector may by order in writing extend the period for the submission of such returns up to any date not later than the twenty-first day of January in the year following that to which they relate:

Provided further that nothing in this sub-regulation shall be deemed to authorise the submission of any return later than the twenty-first day of January in the year following that to which it relates.

4. The notice required by section 14 of the Act shall be furnished in duplicate, and shall specify the name and situation of the mine, the names and addresses of the owner and the manager, and in the case of a new mine, the date on which it was opened. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

5. When a mine has been abandoned, or the working thereof has been discontinued over a period exceeding two months, the owner of the mine shall, within one month after the abandonment or within seven days after the expiry of the said period, as the case may be, send to the Chief Inspector notice in writing specifying the name and situation of the mine, the name and address of the owner, and the date and cause of the abandonment or discontinuance.

6. When a mine is re-opened after abandonment or discontinuance, the owner, agent or manager shall, within one month after the date of the re-opening, send to the District Magistrate notice in writing in duplicate, specifying the name and situation of the mine, the names and addresses of the owner and the manager, and the date of the re-opening. The District Magistrate shall on receipt of the notice forward one copy thereof to the Chief Inspector.

7. When a change occurs in the name of, or in the ownership of, a mine, notice in writing of the change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the change.

8. When any new appointment is made of an agent or manager of a mine, or any change of address of any agent or manager occurs, notice of the appointment or change and of the date thereof shall be sent by the owner, agent or manager to the Chief Inspector within one month from the date of the appointment or change.

9. When the ownership of a mine is transferred, the previous owner or his agent or manager shall make over to the new owner all plans, books and other records required to be kept under the Act, and all correspondence relevant to the working of the mine with the Department of Mines and other Government departments.

10. If the owner, agent or manager of any mine intends to conduct or extend any mining operations under his control at or to any point within fifty yards of any railway subject to the provisions of the Indian Railway Act, 1890, or of any public work in respect of which this regulation is applicable by reason of any general or special order of the Central Government under clause (u) of section 29 of the Act, he shall, not less than sixty days before commencing such operations give notice of his intention to the Chief Inspector and also, in the case of a railway, to the Railway Administration concerned or, in the case of any such public work as aforesaid, to such authority as the Central Government may by general or special order direct.

11. If the operations in respect of which notice is given under regulation 10 are not commenced within twelve months from the expiry of the period of sixty days therein referred to, the notice shall be held to have lapsed and the provisions of that regulation shall apply as if no such notice had been given.

12. The notice to be given under regulation 10 shall specify the position of the workings of the mine in relation to the railway or public work in question, the manner in which it is proposed to carry out the intended new operations, and the limits to which it is proposed to carry the said operations, and shall include a plan showing the existing and the intended mining operations in so far as they affect the railway or public work in question.

<sup>2</sup>[13(1) When there occurs in or about a mine an accident causing loss of life or serious bodily injury, or an accidental explosion, ignition, spontaneous heating, outbreak of fire or irruption of water or an accidental breakage of ropes, chains or other gear by which men are lowered or raised or an accidental overwinding of cages, while men are being lowered or raised, or a premature collapse of any part of the workings, the owner, agent or manager of the mine shall forthwith inform the nearest Inspector about the occurrence by telephone, express telegram or special messenger and shall also, within 24 hours of any such occurrence, send notice thereof in Form IX to the District Magistrate/\*Collector or the Sub-Divisional Magistrate/\*Revenue Divisional Officer, as the case may be, and to the Chief Inspector and shall simultaneously post one copy of the notice on a special notice board at a conspicuous place in the office at the mine and shall ensure that the notice is kept on the board in a legible condition for not less than two months from the date of such posting.

(2) When an accident causing loss of life or serious bodily injury occurs in or about a mine in connection with the generation, transmission, supply or use of electrical energy, the owner, agent or manager of the mine shall also forthwith inform the nearest Electric Inspector by telephone, express telegram or special messenger.

13A. When any accident causing loss of life occurs in a mine, the place of accident shall not be disturbed or altered before the arrival or without the consent of an Inspector unless such disturbance or alteration is unavoidable to prevent further accidents, to remove bodies, or to rescue persons from danger, or unless discontinuance of work at the place would seriously impede the working of the mine:

Provided that if from any cause an Inspector fails to make an inspections within three full days of the date of submission of the notice, work may be resumed at the place of accident.

14. If death results from any injury already reported as serious under regulation 13, the owner, agent or manager shall forthwith inform the Inspector about the death by telephone, express telegram or special messenger and shall also, within twenty-four hours of such death, give notice thereof to the District Magistrate/\*Collector or the Sub-Divisional Magistrate/\*Revenue Divisional Officer, as the case may be and to the Chief Inspector.

14A. Where any person employed in a mine contracts any disease notified by the Central Government in the Official Gazette under section 25 of the Act, the owner, agent or manager of the mine shall, within 14 days of his being informed of the disease, send notice thereof in Form X to the District Magistrate.]

## CHAPTER II—PLANS

15. (1) The following provisions in respect of plans shall apply to all mines for gold, manganese, copper, lead, tin, and wolfram and to such other mines or parts of mines or classes thereof as the Central Government may, by notification in the *Gazette of India*, specify.

(2) Nothing in this regulation shall be deemed to apply to any mine in which the workings do not extend under the super-jacent ground, or to any mine in which excavation is being made for prospecting purposes only:

Provided that the Chief Inspector may direct that this regulation shall apply to any such mine to such extent as he may think fit.

16. The owner, agent or manager of every mine shall keep in the office at the mine an accurate plan and section or sections, properly inked in on durable paper, of the workings of the mine on a scale of not less than 100 feet to 1 inch, showing the workings up to a date not more than six months previously. The name of the mine and of its owner and the scale shall be shown on the plan and sections, and the magnetic meridian with date shall be shown on the plan. The plans and sections shall also show all shafts,

<sup>2</sup> Regulations 13 and 14 omitted and Regulations 13, 13A, 14 and 14A inserted by the Ministry of Labour Notification No. S.R.O. 1857 dated the 23rd August, 1955.

\* In the State of Madras only.

drives, crosscuts, winzes, rises, excavations (stoped ground), and any tunnels and passages connected therewith. They shall also show the boundaries of the underground leasehold, where possible, and all important surface features within the boundaries such as railways, roads, rivers, streams and reservoirs which overlie any part of the workings or any point within 600 feet of any part of the mine workings; also the general strike of the veins or mineral deposits, with their dips at different points, and the dislocations of the strata.

17. The owner, agent or manager of every mine shall, at any time on the request of the Chief Inspector or of any Inspector, produce to him at the office at the mine such plans and sections, and also, on the like request, mark on such plans and sections the then state of the workings of the mine; and the Chief Inspector or Inspector shall be entitled to examine the plans and the sections, and for official purposes to make or have a copy made of any part thereof respectively.

18. Where any mine or any considerable part of a mine is abandoned, or the working thereof has been discontinued over a period exceeding one year, the person who was the owner of the mine at the time of the abandonment or discontinuance shall, within three months after the abandonment or within fifteen months after the discontinuance of working, as the case may be, send to the Chief Inspector accurate plans and sections of the workings of the mine up to time of the abandonment or discontinuance, or a true and accurate copy of the same:

Provided that if a change of ownership occurs after the abandonment or discontinuance and before the expiry of the three months or the fifteen months aforesaid, as the case may be, such plans and sections shall be sent forthwith.

19. After the expiry of ten years from the date of abandonment or discontinuance of working in any mine or in any considerable part of a mine, or, where the consent of the owner of the mine for the time being has been obtained, prior to the expiry of the said period, the Chief Inspector may, on such conditions as he thinks fit to impose, permit any person having interest in the said mine or part of a mine to inspect the plan or section of such mine or part of a mine sent to him in accordance with the provisions of regulation 18 and he may further, on such conditions as he thinks fit to impose, supply to any such person copies of the like plan or section.

#### CHAPTER III—MANAGEMENT

20. For every mine a book, to be called the Inspection Book, shall be kept in which Inspectors may record their observations. The owner, agent or manager shall write or cause to be written at the commencement of the book:—

- (a) the name of the mine,
- (b) the name and address of the owner of the mine and of the agent if any,
- (c) the name and address of the manager of the mine.

21. (1) The owner or agent of a mine shall appoint a competent person of not less than 21 years of age to be manager of the mine. If any question arises whether any person so appointed is competent to perform the duties of manager, the decision of the Chief Inspector shall be final.

(2) One person may be appointed manager of more mines than one, provided that the size of such mines and the distance between them is not so great as to preclude the proper and thorough performance by such manager of his duties in respect of each such mine. The decision of the Chief Inspector shall be final on any question arising out of this regulation.

(3) Where by reason of absence or for any other reason the manager is unable to perform the duties required of him by the Act, regulations, rules and bye-laws, the owner, agent or manager shall authorise in writing a person, whom he considers competent, to act as manager of the mine:

Provided that—

- (a) no such authority shall have effect for a period in excess of one month;
- (b) the owner, agent or manager, as the case may be, shall send to the Chief Inspector with the least possible delay, a written notice intimating that such an authorisation has been made, and stating the reason for the authorisation, the qualifications and experience of the person authorised and the dates of the commencement and ending of the authorisation; and
- (c) the Chief Inspector may by order in writing revoke any authority so granted, and such order shall be final.

(4) No person shall be appointed to carry out the inspection required by regulation 43 unless he has attained the age of 21 years and has had sufficient practical experience of the working of mines. If any question arises whether the person so appointed is competent to carry out the duties required of him, the decision of the Chief Inspector shall be final.

CHAPTER IV—SHAFTS AND OUTLETS

22. Where any part of a mine is so situated that there is any danger whatever of an irruption of surface water into the mine adequate protection against such an irruption shall be provided and maintained.

23. (1) At every mine where more than 20 persons are employed under ground, or where in the opinion of the Chief Inspector it is necessary, there shall be at least two shafts or outlets, not nearer to one another than 20 feet, affording separate means of ingress and egress available to all the persons employed in the mine.

(2) Proper arrangements shall be made for persons to descent to, and ascend from, the mine at each of such shafts, or outlets. If apparatus is necessary, it shall be kept on the works belonging to the mine and shall be constantly available for use.

(3) The foregoing provisions of this regulation with respect to shafts and outlets shall not apply—

(i) while a shaft is being sunk or an outlet is being made;

(ii) to any working for the purpose of making a communication between two or more shafts or outlets.

(4) The Chief Inspector may exempt from the operation of this regulation, subject to such conditions as he may think fit to impose, any mine in the case of which special difficulties exist which in his opinion make compliance with the provisions of this regulation not reasonably practicable.

CHAPTER V—RAISING AND LOWERING PERSONS OR MATERIALS

24. At every shaft or incline where persons or materials are lowered or raised by means of machinery the following provisions shall have effect, namely:—

(a) A single linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to a cage, skip, wagon or bucket.

(b) Ropes used in raising and lowering persons and all cappings or sockets and shackles shall be of the best materials and kept in good condition. The working load shall at no time be more than one-sixth of the breaking load of the rope. A similar spare rope shall always be kept in reserve at mines where there is only one hoisting shaft.

(c) There shall be attached to every machine worked by mechanical power, and used for raising and lowering persons, one or more brakes of sufficient power by themselves to hold the cage, skip, wagon or bucket, when loaded, at any point in the shaft, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage, skip, wagon or bucket in the shaft; and if the drum is not on the crank shaft, there shall be an adequate brake on the drum shaft:

Provided that in the case of a shaft or winze not exceeding 100 feet in depth or a shaft or winze in course of sinking so much of this clause as requires an indicator shall not apply.

(d) Every apparatus on or in which persons ride in a working shaft shall be provided with a sufficient cover overhead, except—

(i) in that portion of a shaft which is being extended by sinking, or

(ii) where persons are employed at work in a shaft.

(e) Every working shaft used for the purpose of drawing mineral or for lowering or raising persons shall, if exceeding 150 feet in depth, be provided with proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in use between the surface and the bottom of the shaft, to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft. There shall also be proper means of transmitting distinct and definite signals from the top of every winding shaft to the winding engine. All signals shall be transmitted by mechanical or electrical means.

(f) (i) The first three or principal signals shall be—

One rap or bell	...	RAISE when engine at rest.
One rap or bell	...	STOP when engine in motion.
Two raps or bells	...	LOWER.
Three raps or bells	...	MEN ready to ascend or descend.
Three raps or bells	...	IN REPLY. Men may enter the cage or other conveyance:

Provided that an alternative code may be used where the written permission of the Chief Inspector has been obtained.

- (ii) Any other signals shall be in addition to, and shall not interfere with, the foregoing.
- (iii) A printed copy of the code of shaft signals shall be posted at the shaft top and at every inset, and also at the winding engine.
- (g) Every working shaft used for lowering or raising persons by machinery, other than machinery operated by hand labour, shall, if it exceeds 150 feet in depth, be provided with guides to within not less than 100 feet from the bottom of the shaft.
- (h) Adequate stationary lights shall be provided and used during working hours:—
  - (1) at all places where persons have to work under ground in the immediate vicinity of shafts.
  - (2) after dark at the tops of all working shafts and at all winding engines used for raising and lowering persons.
- (i) There shall be on the drum of every machine used for lowering or raising persons such flanges, horns or other appliances as may be sufficient to prevent the rope from slipping. The rope shall be securely fastened to the drum, and there shall be at least two turns of the rope on the drum when the cage, skip, bucket or box is at the bottom of the shaft.
- (j) Every cage shall be provided with catches or some other suitable contrivance to prevent tubs from falling out, and shall, if used for lowering or raising persons, be covered incompletely at the top and closed in at the two sides in a manner sufficient to prevent persons or things from projecting beyond the sides, and shall be provided with suitable gates or other rigid fences and with a rigid hand bar fixed in a position where it can be easily reached by all persons in the cage.
- (k) The manager, or a competent person or persons appointed by the manager for the purpose shall, once at least in every 24 hours, examine the state of the external parts of the machinery and of the head-gear, ropes, chains, cages, guides, and conductors in the shafts and other similar appliances of the mine which are in actual use, both under ground and above ground, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written a full and accurate report of the result of such examination. Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

25. No person shall get on or off a cage, skip, tub or bucket used for lowering or raising persons after the same has been set in motion, or leave it until it has reached the appointed stopping place; nor shall any person ride on the top or edge of any cage, skip, bucket or box except when engaged upon work in the shaft.

26. No person, when ascending or descending a shaft, shall take with him any tools or other bulky materials, save when engaged in repairing the shaft or when otherwise specially authorised by the manager:

Provided that, in the case of tools only, the manager may, by general order, permit the same to be carried.

27. No person shall ride in a shaft on, or against, a loaded cage, skip, bucket or box.

28. Every person, when at or about the top or the bottom of a shaft, shall obey the orders and directions of the shaft attendants on duty at the time.

29. Every windlass, whim or whip in use at a shaft or winze shall be provided with a stopper, lynch peg, or other reliable holder.

30. The bucket, skip or any wagon in the cage shall not be filled up to such a height that any of the contents can fall out, and the bottom of the cage shall be kept clean.

31. When tools, wood, etc., with ends projecting over the top of the cage, skip or bucket are being lowered or hoisted, the projecting ends shall be securely fastened to the rope or bow.

32. Not more than such number of persons as may be authorised by the manager shall be allowed to ride in the same cage, tub, skip or bucket at one time, and a notice specifying the authorised number shall be posted at the top of every shaft and at every inset in a shaft.

33. When the winding apparatus is not provided with some automatic contrivance to prevent overwinding, a point shall be fixed and marked on the indicator in such a way as to show when the cage or other conveyance is within a distance of twice the circumference of the drum from the completion of the wind; and when such cage or conveyance has reached such distance it shall not, if either it or the descending cage contains persons, be raised for the remaining distance at a speed exceeding three miles per hour.

34. In shafts exceeding 300 feet in depth, where persons are raised or lowered by machinery, suitable devices shall be fitted if, in the opinion of the Chief Inspector, such are required to provide against the overwinding of cages, skips or other conveyances or to safeguard persons liable to be injured in the case of an overwind.

35. At the top of every incline on which the haulage, not being endless rope or endless chain haulage, is worked by mechanical power or gravity there shall be stop-blocks or other similar contrivances to prevent wagons from running away. Additional stop-blocks or runaway switches, or some other appliance for arresting or diverting the descent of wagons in the event of a runaway, shall be fixed below the first stop-blocks at a greater distance than the length of a train of wagons. There shall also be provided and attached behind the ascending wagon or train of wagons a backstay, drag or other suitable contrivance for preventing the wagon or wagons from running back.

36. Where wagons are moved by hand no person shall permit a wagon to run uncontrolled, and, if sprags are necessary, a sufficient number shall be provided by the manager.

37. No person shall ride upon any tub, truck or wagon either under ground or above ground without the permission of the manager.

#### CHAPTER VI—MINE WORKINGS

38. The sides of open workings shall be sloped, stepped or secured in such a manner as to prevent danger from falls of material.

39. When an open working is worked in steps, steps shall be of sufficient breadth in comparison with their height to secure safety.

40. In open workings, trees liable to fall, the overburden, and all loose ground and material, shall be removed sufficiently far from the edge, or otherwise made secure, in order to prevent danger to persons employed in the mine.

41. The roofs and sides of all travelling roads and working places shall be made and kept secure

41A. Every footpath along which loads are carried in open workings by human agency shall comply with the following requirements—

(a) its breadth shall not be less than three feet;

(b) its slope shall not be greater than 1 vertical to 2 horizontal;

(c) at every place where its slope exceeds 1 vertical to 4 horizontal reasonably level steps shall be provided such that the vertical height of every step does not exceed seven inches and the dimension of every step measured horizontally from the edge to the back is not less than fourteen inches.

*Explanation.*—Gang-planks used for loading wagons shall not be deemed to be part of a footpath for the purposes of this regulation; provided that every gang-plank shall be so inclined or constructed as to give a secure foot-hold.

41B. Where women are employed in carrying loads, the weight of the loads and the height and distance to which they have to be carried shall not be such as to involve risk of injury to the health of the women. If any dispute arises as to whether risk of injury to health is involved, the decision of the Chief Inspector shall be final.

42. Where the ground is not safe, all shafts in use shall be made secure with suitable timber-work or other means of support.

43. (1) A competent person or persons appointed for the purpose by the manager or underground manager shall inspect, at least once in every shift, every part of the mine in or through which any person has to work or pass, for the purpose of ascertaining the condition thereof as far as ventilation, roof, sides and general safety are concerned, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written a full and accurate report of the result of such inspection in a book to be kept at the mine for the purpose, and shall sign and date his report.

(2) A competent person appointed by the manager for the purpose, shall, once at least in every week, examine the state of the shafts by which persons ascend or descend, and, if more than 20 persons are employed in the mine simultaneously, shall without delay write or cause to be written a full and accurate report of the result of the examination.



Every such report shall be recorded in a paged book to be kept at the mine for the purpose, and shall be signed and dated by the person who made the examination.

44. Every place where work is carried on or where men are stationed or pass shall be placed under the charge of a competent person appointed by the manager or underground manager.

45. If a working place or travelling road is found to be unsafe, all persons shall be withdrawn immediately from the dangerous area and all access to such working place or travelling road, except for the purpose of removing the danger or saving life, shall be prevented by securely fencing the full width of all entrances to the place.

46. The top and all entrances between the top and bottom of shafts, winzes, shoots or sliding holes and any openings into a stope more than 10 feet deep below a drive and other dangerous openings, shall be provided with a permanent or removable barrier in order to prevent persons or things from falling into them. When a shaft, winze, rise or stope leads directly into a travelling road or place where persons are stationed at work, the traffic at such points shall be protected against danger from anything falling from above.

47. At every shaft station where it is necessary for persons to pass from one side of the shaft to the other, provision shall be made enabling them to do so without entering or crossing a winding compartment.

48. All ladders, ladderways, platforms, doors, fences and other appliances and things in use under ground shall be maintained in proper repair. Temporary ladders, platforms or other means of climbing or keeping a footing while at work shall be provided in sinks, winzes, rises, stopes and other places where they are needed.

49. Where any working is approaching any place containing or likely to contain a dangerous accumulation of water, the working shall not exceed 6 feet in width or height, and bore-holes shall be constantly kept at such a distance in advance of the face and at such angles from the working as is necessary to obviate the danger of a sudden breaking through of such water.

50. An adequate amount of ventilation shall be constantly produced in every mine to clear away smoke and to dilute and render harmless inflammable and noxious gases to such an extent that the working places of the shafts, levels, and workings of the mine, and the travelling roads to and from these working places shall be in a safe state for persons working or passing therein.

51. Underground workings and shafts, sumps and winzes which have been in disuse for some time shall be examined before again being used in order to ascertain whether foul air or other dangerous gases have accumulated therein, and also to ascertain the condition of the roof and sides; and only such workmen as may be necessary to make such examination shall be allowed to proceed to such places until such places are certified to be in a safe state to work and travel in.

52. In any underground part of a mine where adequate stationary lights are not in use, every person shall carry a light.

53. No person shall work in any place other than a place in which he has been ordered to work by an official of the mine or by any person in whose charge he has been placed by an official of the mine.

#### CHAPTER VII—LADDERWAYS

54. In ladder-shafts making an angle of 25 degrees or less with the vertical, platforms shall be provided at intervals not exceeding 35 feet. Ladders shall be placed so as to cover the openings in the platforms; provided that in cases where timber and supplies are handled, a portion of this opening may be to one side of the ladder and in the opposite corner of the platform. Except in respect of the lowest 30 feet of a sinking shaft, ladders shall be fixed at an inclination of not less than one foot horizontal for every 10 feet vertical; provided that where exceptional circumstances require they may, with the consent of an Inspector, be fixed at a steeper inclination.

55. In ladder-shafts where the slope is less than 65 degrees and more than 30 degrees with the horizontal, platforms shall be placed at intervals of not more than 55 feet along the underlie or slope of the shaft.

56. All platforms shall be securely fenced.

57. All ladders shall be securely fastened to the sides of timbering of the shaft.

58. All ladders shall project at least three feet above the shaft-top and above every platform, or strong holdfasts shall be provided at these places in convenient positions.

59. A ladderway, which is a compartment of a shaft used also for other purposes, shall be closed off from the other compartments to such an extent as to prevent injury to workmen passing up and down the ladderway.

60. Every ladderway-opening in any travelling road or place where men are stationed or pass shall be provided with a door or with a substantial fence.

61. No person shall carry or be permitted to carry any drill, tool or any loose material on a ladderway in a vertical or steeply inclined shaft or winze, except so far as may be necessary in executing repairs:

Provided that nothing in this regulation shall prevent a person from carrying tools on a ladderway to a stope.

#### CHAPTER VIII—EXPLOSIVES

62. The explosives provided for use in the mine shall be of good quality and, as far as can be practically known, in good condition, and only detonators of one strength and of sufficient power for every class of explosive used shall be kept for use in the same mine.

63. Explosives shall not be taken into or kept in a dwelling house, but only in a properly constructed magazine.

64. (1) Explosives shall not be stored under ground in a mine except with the approval of an Inspector in writing, and in a magazine or magazines duly licensed in accordance with the provisions of rules made under the Indian Explosives Act, 1884.

(2) The Manager shall appoint in writing a competent person or competent persons to be in charge of every magazine for the storage of explosives and no person shall be in charge of a magazine without such written authority.

(3) Explosives shall be issued only to competent persons appointed by the manager or underground manager or foreman, and no unauthorised person shall have explosives in his possession. The names of such competent persons shall be registered in a book to be kept for the purpose.

(4) The person in charge of a magazine shall keep a correct record of the quantity of gunpowder and of the numbers of cartridges of other kinds of explosives and of detonators issued from the magazine to each authorised person, and a similar record of explosives returned to the magazine.

65. Underground magazines shall be placed at a sufficient distance from one another and from any portion of the mine in which work is going on or which is used as a travelling road, to prevent the risk of injury to any person in the event of the explosion of the maximum amount of explosive stored.

66. The quantity of explosive which may be stored in an underground magazine shall not exceed the supply required for two working days in the mine in which the magazine is situated.

67. Detonators shall be kept in a securely locked box separate from any other explosive and no detonator shall be inserted into a priming cartridge until immediately before it is to be used:

Provided that, in the case of a wet working, priming cartridges may be prepared at the nearest convenient dry place adjacent to the working.

68. Every precaution shall be adopted to prevent the explosion or ignition of explosives stored in an underground magazine. The Chief Inspector may prescribe precautions to be adopted in addition to those required by the terms of the explosives licence.

69. No naked light shall be taken into an underground magazine or store.

70. Explosives shall not be sent down in the cage, skip or bucket unless there is a distinguishing mark attached to the cage, skip or bucket, or they are accompanied by a shot-firer or responsible person.

71. All blasting operations shall be conducted by or under the personal direction of duly competent persons, not less than 18 years of age, appointed by the manager, underground manager or foreman. The names of these persons shall be registered in a book to be kept for the purpose.

72. The number of shots fired, the quantity of explosives used and the number of shots (if any) which have misfired shall be recorded daily in a book to be kept for the purpose.

73. All unused explosives shall be returned to the magazine without delay. Such returned explosives shall be re-issued before fresh stock is used.

74. No explosives shall be taken into a mine except in a secure case, canister or bag containing not more than five pounds each and a person shall not have in use or keep for use, at one time in any one place within the mine, more than one such case, canister or bag. The place in the mine at which any such case, canister or bag is in use, or is kept for use, shall, unless solid ground directly intervenes, not be less than thirty feet from a place at which any other such case, canister or bag is in use or kept for use:

Provided that the Chief Inspector may, in special cases and by order in writing, permit, subject to such limitations as he may prescribe, the use at one time in one place of more than one of such cases, canisters or bags:

Provided further that nothing in this regulation shall prohibit the conveyance of larger quantities of explosives for supplying an underground magazine.

75. When explosives are being carried on a ladder, each case, canister or bag shall be securely fastened to the person carrying it.

76. In the process of charging or stemming a hole no person shall use an iron or steel tool, scraper or tamping rod, nor shall he use undue force in pressing the explosive into the hole or strike it when at the bottom of the hole.

77. In any underground working place only those holes which are to be fired in the next round shall be charged, and the fuses in all holes which have been charged shall be ignited or detonated together.

78. Before a shot is fired in an underground working place due warning shall be given to persons in the vicinity, and every entrance to the place where a shot is about to be fired shall be guarded so as to prevent any person, not having received warning, from placing himself in dangerous proximity to the shot.

79. (1) When two underground working places have approached to within 10 feet of one another, no blasting shall be done in anyone of such workings unless the workmen have been withdrawn from the other working, and the same has been fenced.

*Explanation.*—For the purpose of this sub-regulation any place to which workmen have lawful access shall be deemed to be a working place.

(2) In open workings blasting shall not be commenced until such warning as will prevent danger to the persons working in the mine and its vicinity has been given by an efficient system of signals or by other means arranged by the manager. Notice shall similarly be given as soon as blasting is finished.

80. When shots are fired, the number of reports shall be counted by at least two persons. The lowest count shall be taken to be correct. Unless it is certain that all the shots have exploded, no person shall re-enter such working place until 30 minutes after blasting, unless the shot has been fired by electrical means when this interval may be reduced to not less than ten minutes after the source of the electricity has been disconnected from the cable, and the place becomes clear of fumes. If the charge is known to have burnt away without exploding no person shall re-enter the working place for an hour.

81. After a shot has been fired in an underground working place the person who fired the shot or a competent person appointed in writing by the manager of the mine shall before any other person enters the place, make a careful examination and with his assistants make the place safe. No other person shall enter the place until the examination has been made and the place has been declared to be safe in all respects.

82. No person shall bore out a hole that has once been charged or attempt to withdraw a charge either before firing or after a misfire or deepen or tamper with empty holes or sockets left after blasting.

83. When a misfire occurs, a portion of the tamping may be sludged out with compressed air or water under pressure, but no kind of tool shall be used for this purpose. The hole shall thereafter be reprimed and fired.

84. No person shall drill or cause or permit to be drilled any hole within 12 inches of a misfired hole, and care shall be taken to drill the new hole in such a direction that there is no danger of touching the unexploded charge. The new hole shall be bored in the presence of an authorised shot-firer, and he shall be present during operations undertaken for the removal of debris lying within six feet of the misfired hole. A careful search amongst the debris shall be made for cartridges and detonators, if any.

85. If a place where a misfire has occurred is temporarily vacated a man shall be posted to warn all persons in the neighbourhood of the fact, or the place shall be fenced so as to prevent access. In open workings it will be sufficient to mark the place of misfire with a red flag.

## CHAPTER IX—MISCELLANEOUS

86. (1) Every flywheel and all exposed and dangerous parts of the machinery used in and about a mine shall be kept securely fenced.

(2) Where it is necessary to prevent danger to the public every tank or reservoir shall be securely fenced.

87. Efficient guards shall be provided for such parts of any machinery and any electrical conductors as may be a source of danger.

88. If any person, when in charge of any machinery, apparatus or appliance used in or about a mine, observes any defect or dangerous flaw therein, he shall immediately report the fact to the manager, under-manager or engine-wright.

89. Every person shall strictly comply with all lawful orders issued by the manager or such other official as may be empowered by the manager to issue the same.

90. No person occupying any position of trust in or about a mine shall depute another person to do his work without the sanction of the official to whom he is subordinate; and no such person shall absent himself without having previously obtained permission from such official for the term of his absence or without having been relieved by a competent person.

91. No person shall negligently or wilfully do anything likely to endanger life or limb in the mine, or negligently or wilfully omit to do anything necessary for the safety of the mine or the persons employed therein.

92. No person shall damage, destroy or improperly interfere with anything provided for or used in the working of the mine.

93. No person shall remove or pass through any fence, or remove or pass any danger-signal unless so specially authorised by the manager or an official empowered by the manager in that behalf.

94. No person occupying any position of trust in or about a mine shall sleep whilst on duty.

95. If any person required by these regulations or by any rule or bye-law made under the Act to make any report is unable to write, he shall be present when his report is written for him, and shall have it read over to him, and shall attach his thumb mark to it. The person writing the report shall also sign his name at the end together with a statement that it has been read over to the person for whom it was written.

96. Whenever the circumstances at any mine or part of a mine are such as to render any provision of these regulations not reasonably applicable to such mine or part of such mine, the Chief Inspector may, at his discretion, grant exemption, from such provision under such conditions as he may think fit.

## SCHEDULE

## FORM I—(See Regulation 3)

*Annual return for the year ending on the 31st December 19 .*

1. Name of mine.
2. Postal address of mine.
3. Date of opening.
4. Date of closing (if closed).
5. Situation of mine
 

District.
Province.
6.
 

Name of owner.
Postal address of owner.
7.
 

Name of Managing Agents (if any).
Postal address of Managing Agents (if any).
8.
 

Name of Agent (if any), as defined in Section 3 (a) of the Indian Mines Act, 1923.
Postal address of Agent.
9.
 

Name of Manager.
Postal address of Manager.
10. Name of mineral worked.
11. Means by which the mineral is raised from the mine, *i.e.*, hand labour, mechanical or electrical power.

## FORM II—[See Regulation 3]

Persons employed during the year ending on 31st December 19 , and wages paid for work done in December 19

Classification	Aggregate number of daily attendances during the year of persons permanently and temporarily employed	Number of days worked during the year	Daily average number of persons employed as calculated by dividing the aggregate number of attendances by the number of days worked during the year	Average hours worked per week during the year	Aggregate number of daily attendances in December	Total amount paid in wages for work done in December	Average daily earnings in December as calculated by dividing the amount in column 7 by the number of attendances in column 6
1	2	3	4	5	6	7	8
A.—Underground (i.e., in places lying beneath the superjacent ground) ...							
Males—							
Foremen and mates ...							
Miners ...							
Skilled labour not included above ...							
Unskilled labour not included above ...							
Total (Males) ...							
B.—Open workings [i.e., in workings of the mine (including quarries) which are not situated beneath the superjacent ground].							

[illegible]

NOTE (1).—Where males are employed in both underground and open workings, the figures relating to them should be included under Section A.  
NOTE (2).—Where workmen are paid through contractors, the sums entered in column 7 should be the sums paid by the contractors to the workmen, so far as these can be ascertained.

§ (2).—Where workmen are paid the so far as these can be ascertained.

FORM III—[See Regulation 3]

*Accidents and Prosecutions*

Number of separate accidents* reported during the year			Number of persons		Number of prosecutions instituted by the management under which the prosecutions were instituted	Number of persons convicted with the sections and rules under which the convictions were obtained
Fatal	Serious	Total	Killed	Seriously injured		
1	2	3	4	5	6	7

\* Accidents, which were reported as serious accidents but resulted fatally, should be entered as fatal accidents.

FORM IV—[See Regulation 3]

*Epidemic Diseases*

Disease*	Date of appearance	Date of disappearance	Number of cases	Number of deaths
Cholera	...			
Plague	...			
Small-pox	...			
Influenza	...			

\* Figures for any other specified disease which has been epidemic at the mine should be entered in this form.

Form V—(See Regulation 3)

(For mines other than mica mines)

*Type and aggregate horse-power of electrical apparatus*

1.—System of supply (whether continuous current or alternating current)

Voltage of supply	...	...	...	...	...
Periodicity	...	...	...	...	...
Source of supply	...	...	...	...	...

2.—Voltage at which current is used for—

Lighting	...	...	...	...	...
Power	...	...	...	...	...

3. Aggregate horse-power of motors installed on surface for—

Winding	...	...	...	...	...
Ventilation	...	...	...	...	...
Haulage	...	...	...	...	...
Ore dressing	...	...	...	...	...
Miscellaneous	...	...	...	...	...
					Total horse-power

4.—Aggregate horse-power of motors installed under ground for—

Haulage	...	...	...	...	...
Pumping	...	...	...	...	...
Portable machinery	...	...	...	...	...
Miscellaneous	...	...	...	...	...
					Total horse-power

5. Total horse-power (addition of 3 and 4).



FORM VI—[See Regulation 3]

Particulars of Explosives

Explosives

Name of explosive	Quantity used in lbs.	Number of detonators used

INDIAN LABOUR CODE

FORM VII—[See Regulation 3]

(For Mica Mines only)

Output for year ending on the 31st December 19 .

Total amount of dressed mica raised	Total amount of dressed mica consigned	Total value at the mine of mica consigned ("Value" means and should be calculated upon actual or estimated selling price at the mine. Any charges incurred in transporting the mica outside the mine should not be included).
Cwts. Lbs.	Cwts. Lbs.	3

Signature of Owner, Agent or Manager.  
Date of Signature.

(If the form is signed by Managing Agents the words "for owner" should be added.)

FORM VIII—[See Regulation 3]

(For all mines except mica mines)

Output for year ending on the 31st December 19 .

Name of mineral raised and metal (if any) extracted	Total amount of mineral raised. The figures should be stated— (a) in the case of gem-stones, in carats; (b) in the case of alum, amber, asbestos, graphite, jade-stone, steatite, tin-ore, tungsten-ore, in cwt., or where the circumstances require greater particularisation in order to give an accurate estimate of small outputs, in cwt. and lbs. Output of radio-active minerals and rare minerals such as molybdenite, monazite, pitch blende-samaraskite, tantalite, triplite, should be returned in cwt. and lbs.; (c) in the case of clay, limestone, magnesite, marble, phosphatic rock, salt, slate, and other stone, and all metalliferous ores except those referred to in (b), in tons	Total value at the mine of mineral raised. ("Value" means and should be calculated upon actual or estimated selling price at the mine.) Any charges incurred in transporting the mineral outside the mine property should not be included	Quantity of metal or metals extracted at the mine. Each metal should be shown separately— (a) in the case of gold, silver and other precious metals, in Troy ounces; (b) in the case of tin in cwt. and fractions of cwt.; (c) in the case of other metals, in tons and fractions of tons	Value of metal or metals extracted at the mine. The value of each metal should be shown separately
1	2	3	4	5
Total				

Signature of Owner, Agent or Manager.

Date of signature.

(If the form is signed by a Managing Agent the words "for owner" should be added).

## INDIAN LABOUR CODE

\*[FORM IX—(See Regulation 13).

## Notice of Occurrence

Dated \_\_\_\_\_ 19\_\_

From \_\_\_\_\_

To \_\_\_\_\_

1. The Chief Inspector of Mines, Dhanbad P. O., District Manbhum.
2. The District Magistrate/District Collector  
The Sub-Divisional Magistrate/\*Revenue Divisional Officer.

Sir,

I have to furnish the following particulars of a fatal accident/a serious accident/a dangerous occurrence which occurred at the \_\_\_\_\_ mine.

1.	Situation of mine (Village, Thana, District & State)	Mineral worked	Name and Postal address of owner
2.	Date and hour of occurrence	Place and location in mine	Number of persons Killed      Seriously injured
3.	Classification of occurrence†		Cause and description
4.	(a) Name of persons killed	Nature of employment	Age      Sex      Nature of injury and if fatal, cause of death
(b) Name of persons injured			

Yours faithfully,  
Owner/Agent/Manager

†Under one or other of the following heads, namely:—

- (1) Explosions and ignitions of inflammable gas and/or coal dust;
- (2) Falls of ground, (a) Falls of roof; (b) Falls of side, wall or face;
- (3) Haulage, (a) above ground; (b) below ground;
- (4) In shafts, (a) overwinding of cages or other means of conveyance; (b) breakage of ropes, chains or drawgear; (c) while ascending or descending by machinery; (d) by falling objects (excluding falls of ground; (f) miscellaneous;
- (5) Explosives;
- (6) Machinery, (a) above ground; (b) below ground;
- (7) Suffocation by gases;
- (8) Irruption of water;
- (9) Premature collapse of workings;
- (10) Outbreak of fire, or spontaneous heating;
- (11) At railway sidings belonging to the mine;
- (12) Electricity; and
- (13) Miscellaneous, (a) above ground; (b) below ground.]

\* Substituted by the Ministry of Labour Notification No. S.R.O. 1857 dated the 23rd August, 1955.

\* In the State of Madras only.

\* [FORM X—(See Regulation 14A).

*Notice of Disease Notified under Section 25*

From \_\_\_\_\_  
 \_\_\_\_\_

To

1. The Chief Inspector of Mines, Dhanbad P. O., District Manbhum.
2. The District Magistrate/\*District Collector  
 The Sub-Divisional Magistrate/\*Revenue Divisional Officer.

Dated \_\_\_\_\_ 19\_\_\_\_

Sir,

I have to furnish the following particulars with respect to an occupational disease contracted by a person employed in the \_\_\_\_\_ mine.

1. Name of owner, agent or manager \_\_\_\_\_
2. Situation and postal address of mine \_\_\_\_\_
3. Mineral worked \_\_\_\_\_
4. Name and postal address of owner \_\_\_\_\_
- Particulars of persons affected:
5. Name (in Block Capitals) \_\_\_\_\_
6. Caste or surname \_\_\_\_\_
7. Permanent address:—Village \_\_\_\_\_ Thana \_\_\_\_\_  
 District \_\_\_\_\_ State \_\_\_\_\_
8. Sex \_\_\_\_\_
9. Date of birth or age \_\_\_\_\_
10. Occupation \_\_\_\_\_
11. Date of commencement of employment \_\_\_\_\_
- Particulars of diseases, etc.:
12. Nature of disease from which the person is suffering (State stage) \_\_\_\_\_
13. Date of detection of disease \_\_\_\_\_
14. Name and address of Medical Practitioner suspecting disease \_\_\_\_\_

Date of signature \_\_\_\_\_

Signature \_\_\_\_\_

*Owner / Agent / Manager.]*

## COAL MINES RESCUE RULES, 1939

## Arrangement of Paragraphs

- Chapter I.—Preliminary.
- Chapter II.—Constitution and Procedure of Committee.
- Chapter III.—Funds and Accounts.
- Chapter IV.—Rescue Stations.
- Chapter V.—Organisation and Equipment at Mines.
- Chapter VI.—Conduct of Rescue Work.
- Schedule I.—Apparatus and Equipment.
- Schedule II.—Breathing Apparatus: Adjustment and tests.
- Schedule III.—Code of Signs.
- Schedule IV.—Medical Examination.
- Schedule V—
  - Part I.—Preliminary Course.
  - Part II.—Practice and Instruction after becoming efficient.
- Schedule VI.—Code of Signals.

\* Inserted, *ibid.*

\* In the State of Madras only.

# COAL MINES RESCUE RULES, 1939<sup>1</sup>

In exercise of the powers conferred by section 30-A of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely:—

## COAL MINES RESCUE RULES

### CHAPTER I.—PRELIMINARY

1. **Short title and commencement.**—(1) These rules may be called the Coal Mines Rescue Rules, 1939.

(2) Rules 1 to 27 shall come into force at once. The remaining rules shall come into force on such date as the Central Government may by notification in the *Gazette of India* appoint.

2. **Extent.**—These rules shall apply to—

- (i) the area known as the Jharia coalfield in the State of Bihar
- (ii) the area known as the Raniganj coalfield in the States of Bengal and Bihar.

3. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

- (a) "The Act" means the Indian Mines Act, 1923;
- (b) "Chief Inspector" means the Chief Inspector of Mines;
- (c) "Committee" means the Rescue Stations Committee constituted under rule 4;
- (d) "Member" means a member of the Committee; and
- (e) "President" means the President of the Committee.

### CHAPTER II.—CONSTITUTION AND PROCEDURE OF COMMITTEE

4. **Constitution of Rescue Stations Committee.**—(1) The Central Government shall constitute a Committee consisting of the following members for the establishment, maintenance and management of Rescue Station in the areas to which these rules apply, namely:—

- (i) an Inspector of Mines, nominated by the Chief Inspector;
- (ii) one person nominated by the Indian Mining Association;
- (iii) one person nominated by the Indian Mining Federation;
- (iv) one person nominated by the Indian Colliery Owners' Association;
- (v) one person nominated by the National Association of Colliery Managers, Indian Branch;
- (vi) one person nominated by the Indian Mine Managers Association; and
- (vii) three persons to represent the interests of persons employed in the mines in the areas to which these rules apply of whom two shall be nominated in the manner prescribed in clause (e) of section 10 of the Act and the third by the Central Government:

Provided that, if any authority or body entitled to nominate any member fails to make any nomination within a period of thirty days from the date it is called upon by the Central Government to make the nomination, the Central Government may nominate a member to fill the vacancy.

(2) The members shall elect one of their member as President.

(3) No act done by a Committee shall be questioned on the ground merely of existence of any vacancy in, or any defects in the constitution of the Committee.

5. **Term of office.**—(1) Save as otherwise provided in these rules, a member shall hold office for three years from the date of his appointment and shall be eligible for re-nomination: Provided that an outgoing member may continue in office until the appointment of his successor is notified.

(2) A member nominated to fill a casual vacancy or a member appointed by the Central Government on the failure of any authority or body entitled to make a nomination, shall hold office so long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred or the nomination had been made, as the case may be.

(3) Inspectors of Mines shall hold office as directed by the Chief Inspector.

<sup>1</sup> These Rules were published under Government of India, Department of Labour, Notification No. M-955, dated the 9th February, 1939.

(4) Save as otherwise provided in these rules, the President shall hold the office of President for a period of three years from the date of his election and shall be eligible for re-election:

Provided that on ceasing to be a member, the President shall be deemed to have vacated the office of President and shall not, so long as he is not a member, be eligible for re-election.

**6. Resignation.**—(1) A member other than the President may resign his office by letter addressed to the President.

(2) The President may resign his office by letter addressed to the Central Government.

**7. Absence from India.**—(1) Before a member leaves India—

(a) he shall intimate to the President the date of his departure from and the date of his expected return to India; and

(b) if he intends to be absent from India for a longer period than six months, he shall tender his resignation.

(2) If any member leaves India without taking the action required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

(3) If the President leaves India without resigning his office as President, he shall be deemed to have resigned from the date of his departure from India.

**8. Vacation of office.**—(1) A member shall be deemed to have vacated his seat on the Committee—

(a) if he becomes bankrupt or insolvent or suspends payment of compounds with his creditors; or

(b) if he is convicted of any offence which is punishable under the Indian Penal Code and is under the provisions of the Criminal Procedure Code non-bailable; or

(c) if he is absent from meetings of the Committee during a period of three consecutive months without leave of absence from the Committee; or

(d) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member of the Committee.

(2) The Central Government may after such inquiry as it deems necessary declare that the President has vacated his office and the Committee shall thereupon elect another member as President.

**9. Time and place of meetings.**—(1) The President may at any time call a meeting of the Committee and shall do so if a requisition for that purpose is presented to him by four other members.

(2) The meetings of the Committee shall, unless the President in any case otherwise directs, be held at Dhanbad.

**10. Notice of meetings.**—Not less than seven clear days before any meeting of the Committee notices of the time and place of the intended meeting, signed by the President, shall be left at or posted to the usual place of residence of every other member:

Provided that in cases of urgency an emergency meeting may be summoned at any time by the President who shall inform the other members of the subject-matter for discussion and the reasons for which he considers it urgent. Business not arising out of the subject-matter shall not be introduced or transacted at an emergent meeting.

**11. Presiding at meetings.**—The President shall preside at every meeting of the Committee at which he is present. If the President is absent from any meeting the members present shall elect one of their member to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the President.

**12. Quorum.**—No business shall be transacted at a meeting of the Committee unless at least four members are present:

Provided that if at any meeting less than four members attend the President may adjourn the meeting to a date not less than seven days later and inform the members present and notify other members that he proposes to dispose of the business at the adjourned meeting irrespective of a quorum, and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number attending.

**13. Powers and duties of the President.**—The President shall be the Principal Executive Officer of the Committee and, in addition to the other powers and duties conferred upon him by these rules, shall—

(a) present all important papers and matters to the Committee as early as practicable;

(b) issue orders as to the method of carrying out the decisions of the Committee;

(c) sign or, subject to a resolution by the Committee, authorise some other person to sign cheques issued on behalf of the Committee;

(d) grant or, subject to a resolution by the Committee, authorise some other person to grant, receipts on behalf of the Committee for all moneys received under these rules;

(e) maintain or cause to be maintained an account of the receipts and expenditure of the Committee; and

(f) present an annual draft report on the working of the Committee to the Committee for approval and submit the report in the form approved by the Committee to the Central Government.

**14. Disposal of business.**—(1) All questions which the Committee is required to take into consideration shall be considered either at its meetings or by circulation of the papers as the President may direct.

(2) When a question is referred by circulation of papers any member may request that the question be considered at a meeting of the Committee. If three or more members make such a request, the President shall direct that it be so considered, and if any member makes such a request, he may direct that it be so considered.

**15. List of Business.**—(1) The President shall circulate to the other members at least three days before a meeting of the Committee a list of business to be disposed of at that meeting.

(2) No business not on the list shall be considered without the permission of the President.

**16. Decision by majority.**—(1) Every question at a meeting of the Committee shall be decided by a majority of votes of the members present and voting on that question.

(2) Every question circulated to the members shall, unless the President in pursuance of sub-rule (2) of rule 14 reserves it for consideration at a meeting, be decided in accordance with the opinions of the majority recording opinions.

(3) In the case of an equal division of votes or opinions, the President shall exercise an additional vote or opinion.

**17. Committee's establishment.**—(1) The Committee shall, from time to time, fix the scale of establishment and the salaries and allowances of all officers and servants to be employed by it and require security in such instances and to such amount as it thinks fit.

(2) Subject to the scale of establishment fixed under sub-rule (1), the President shall have power to appoint, dismiss, grant leave to, suspend or reduce any person in the service of the Committee;

Provided that—

(a) no person shall be appointed to, or dismissed from, an office the salary of which is one hundred and fifty rupees or upwards without the sanction of the Committee at a meeting;

(b) the grant of leave, pay and allowances to officers and servants of the Committee, who are not Government servants, shall be regulated by rules made by the Committee.

**18. Remuneration of members.**—(1) Each member shall be paid Rs. 16 for each meeting attended by him, subject to a maximum of Rs. 32 for any one calendar month.

(2) A member performing a journey to attend a meeting or with the approval of the Committee, on other business of the Committee shall be paid—

(a) if a non-official, the actual travelling expenses incurred by him in performing the journey not exceeding the travelling allowance admissible to a Government servant of the first grade for a journey on tour;

(b) if a Government servant, such travelling allowances as would be admissible to him under the appropriate rules if the journey had been performed on Government duty.

### CHAPTER III.—FUNDS AND ACCOUNTS

**19. Imposition of excise duty.**—There shall be levied and collected on all coal and coke despatched by rail from collieries or coke plants situated in the areas to which these rules apply a duty of excise at the rate of 1½ pies per ton for one year from the 1st day of May 1939, and thereafter at such rates as the Central Government may, after consulting the Committee by Notification in the *Gazette of India*, fix:

Provided that, when it is proved to the satisfaction of the Committee or any person authorised in this behalf by the Committee, that any coal, on which the duty of excise had previously been collected, has been used in the manufacture of any coke, on which also

the duty has been collected, the Committee or the person authorised in this behalf by the Committee may order refund of an amount equal to the duty collected on such coal to the person from whom such duty was collected.

**20. Recovery of excise duty.**—(1) The excise duty imposed under rule 10 shall, when the coal or coke is despatched by rail from collieries to any station in the Indian Dominion, be collected by the Railway Administration concerned by means of a surcharge on freight and such duty of excise shall be recovered—

- (a) from the consignor, if the freight charges are being pre-paid at the forwarding station;
- (b) from the consignee, if the freight charges are collected at the destination of the consignment; or
- (c) from the party paying the freight if the consignment is booked on the "weight only" system.

(2) Where the coal or coke is despatched by rail from collieries to stations outside the Indian Dominion, the duty of excise shall be recovered from the consignor at the forwarding station, in all cases.

(3) In collecting the amount of excise duty payable on any one consignment, a fraction of an anna shall be rounded off to the nearest anna.

**21. Weight for charge.**—For the purposes of the levy of the excise duty, the actual weight of a consignment, rounded off to the nearest ton, shall be taken into account.

**22. Remittance of excise duty to the Committee.**—The total amount of excise duty collected by each Railway Administration in respect of despatches from the areas to which these rules apply, less—

- (a) refunds and write-offs, authorised by Railway Administration under rule 23;
- (b) a deduction of such percentage<sup>2</sup> not exceeding ten as the Central Government may, by notification in the *Gazette of India*, fix, towards the cost of collection shall be remitted quarterly to the Government treasury at Dhanbad for the credit of the Committee.

**23. Refunds and recoveries.**<sup>3</sup>—Where the amount of the excise duty due under these rules has not been collected or where the amount collected is in excess of the amount due, the Railway Administration shall deal with the undercharge or overcharge as the case may be, on the same principles as apply to undercharges and overcharges in regard to railway freight charges.

**24. Deposit of moneys.**—All excise duty and other moneys received on behalf of the Committee shall be deposited in the Government treasury at Dhanbad to the credit of the Committee:

Provided that the Committee may from time to time authorise the retention in the charge of the President or any other person of such sum as it thinks fit as petty cash to meet contingent expenditure.

**25. Application of excise duty and other moneys received.**—The proceeds of the excise duty and any other moneys received by the Committee shall be applied to meeting the expenses of the Committee and the maintenance and upkeep of the Rescue Stations.

**26. Keeping, auditing and publication of accounts.**—(1) The Committee shall keep accounts of all moneys received and expended during each financial year.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Central Government.

(3) The auditors may disallow any item which has, in their opinion, been expended out of any moneys so received otherwise than as directed by or under these rules.

(4) If any item is disallowed, an appeal may be made to the Central Government whose decision shall be final.

<sup>2</sup> In pursuance of clause (b) of rule 22, the Central Government is pleased to fix, with effect from 1st April 1947, two as the percentage which each Railway Administration shall be entitled to deduct, towards the cost of collection, from the total amount of excise duty collected by it under the said rules.

<sup>3</sup> The rate of duty of excise referred to in rule 19 was fixed at 1½ pies per ton with effect from 1st May 1940 (*vide* Department of Labour, Notification No. M.-1278, dated the 16th April 1940) at 2 pies per ton from the 1st October 1942 (*vide* Department of Labour, Notification No. M.-955, dated the 17th September 1942), and at 2½ pies per ton from the 15th May 1943 (*vide* Department of Labour, Notification No. M.-955, dated the 14th April 1943).



(5) The audited statement of receipts and expenditure together with the annual report referred to in clause (f) of rule 13 shall be submitted to the Central Government not later than July in each year.

(6) An abstract statement of the receipts and expenditure shall be published annually in the *Gazette of India*.

#### CHAPTER IV.—RESCUE STATIONS

**27. Maintenance and location of Rescue Stations.**—(1) The Committee shall establish as early as practicable and maintain one Rescue Station in the Jharia coalfield and one Rescue Station in the Raniganj coalfield.

(2) The Station shall be located—

(a) for the Jharia coalfield within a radius of four miles from the Dhanbad Railway Station;

(b) for the Raniganj coalfield within a radius of five miles from the Asansol Railway Station.

**28. Appointment of Superintendents.**—Each Rescue Station shall be placed under the control of a competent Superintendent who—

(i) has been for two years a Superintendent or Instructor at a rescue station or a member of a permanent rescue corps, or

(ii) has been fully trained in rescue work, and has had five years' practical experience of underground work in a mine.

**29. Appointment of Instructors.**—(1) Not less than three competent instructors shall be employed at each Rescue Station to train rescue workers.

(2) No person shall be appointed as an instructor unless he has had at least three years' practical experience of underground work in a mine.

(3) The superintendent of the station may be included as an instructor for the purpose of sub-rule (1).

(4) At least one instructor shall always be in attendance at the Station and one instructor shall be appointed to take charge of the Station in the absence of the Superintendent.

**30. Permanent Rescue Corps.**—(1) A permanent rescue corps shall be maintained at each Rescue Station. Exclusive of the Superintendent and of the person appointed to take charge of the Station in his absence, the corps shall consist of not less than six fully trained men. One or more members shall be trained to act as leaders.

(2) It shall be the duty of the corps—

(a) to conduct rescue work and take all practicable steps to minimize danger in mines after any explosion or outbreak of fire or dangerous irruption of noxious or inflammable gas;

(b) generally to fulfil any other obligations imposed upon them by these rules.

(3) A permanent rescue corps of a Rescue Station shall not be employed for reopening or recovering mines or parts thereof, which has been closed or sealed on account of explosion, outbreak of fire or irruption of noxious or inflammable gas, except at the discretion of the Committee.

**31. Attendance of Corps at Station.**—The members of the rescue corps maintained at a Rescue Station shall be continuously employed at the Station, and in constant residence there.

**32. Rescue apparatus and equipment.**—(1) At every Rescue Station there shall be provided and maintained, in good order and ready for immediate use, apparatus and equipment suitable and sufficient to enable the requirements of these rules to be carried out. Such apparatus and equipment shall include that specified in Schedule I to these rules.

(2) The following apparatus and equipment to be provided in pursuance of sub-rule (1) shall be of a type or standard approved by the Chief Inspector:—

(a) breathing apparatus;

(b) smoke helmets and other apparatus serving the same purpose;

(c) gas masks;

(d) reviving apparatus;

(e) electric safety lamps and flame safety lamps;

(f) first-aid boxes;

(g) fire extinguishers.

Any apparatus or equipment approved by the Chief Inspector in pursuance of this rule may be approved either absolutely or subject to conditions.

(3) No apparatus or equipment specified in heads (a) to (g) in sub-rule (2) shall be provided or used at any Rescue Station or mine if it is not of a type or standard approved by the Chief Inspector.

(4) Breathing apparatus for use at a mine in rescue work or training shall be obtained as required from the Rescue Station serving the mine.

(5) All breathing apparatus and every flow-meter shall be adjusted and tested periodically, and the purity of oxygen for use in breathing apparatus shall be tested. The tests shall be made in the manner prescribed in Schedule II to these rules.

**33. Accidents caused by equipment or apparatus.**—(1) A report in writing giving particulars of every accident or dangerous occurrence arising out of the use of any breathing apparatus or smoke helmets or other apparatus serving the same purpose at any mine, shall be sent within 24 hours of the accident or occurrence to the Inspector of the Circle by the manager of the mine.

(2) If any such accident or dangerous occurrence takes place at any Rescue Station, a similar report shall be sent by the Superintendent of the Station.

#### CHAPTER V.—ORGANISATION AND EQUIPMENT AT MINES

**34. Appointment of men from mines to act with permanent rescue corps.**—The manager of every mine situated in the areas to which these rules apply employing 100 or more persons underground on any one day of the preceding twelve months shall appoint on the following scale fully trained men to co-operate with the Rescue Station in rescue work and practice:—

Where the total number of persons employed underground is not more than 500 ...	not less than one trained man.
Where the total number of persons employed underground is more than 500 but not more than 1,000 ...	not less than two trained men.
Where the total number of persons employed underground is more than 1,000 but not more than 1,500 ...	not less than three trained men
Where the total number of persons employed underground is more than 1,500 ...	not less than four trained men.

**35. Disposition of rescue workers.**—(1) So far as practicable it shall be arranged that trained men for rescue work at a mine, where there is more than one, shall not all be employed underground at the same time.

(2) Effective arrangements shall be made at every mine for summoning rescue workers immediately their services are required.

**36. Telephonic communication.**—Every mine situated in the areas to which these rules apply shall be in telephonic communication with the Rescue Station serving the mine:

Provided that if the number of persons employed underground in a mine does not exceed one hundred, the requirements of this rule shall be deemed to have been complied with if the office of the mine is situated within a distance of two miles from a telephone connected to the Rescue Station:

Provided further that the Chief Inspector may exempt any mine, where there is no public telephone system, from the provisions of this rule subject to such conditions as he may impose to ensure other prompt means of communication with the Rescue Station.

**37. Tracings showing ventilation, etc.**—There shall be kept at every mine, other than an open mine, in which the number of persons employed exceeds one hundred, situated in the areas to which these rules apply, in a form suitable for use by rescue workers, a sufficient number of clear and legible tracings, not being less than three, of the workings of the mine up to a date not more than six months previously, showing the ventilation and all principal doors, stoppings and air-crossings, regulators and telephone stations, and distinguishing the intake airways by a different colour from the return airways. The signs used in these tracings shall be those specified in Schedule III to these rules.

**38. Selection of rescue workers.**—(1) The persons to be trained in rescue work shall be carefully selected on the grounds of their coolness, powers of endurance and general suitability for the work, and, in the case of men from mines to be trained to co-operate with permanent rescue corps also on the ground of their knowledge of the mine.

(2) No person shall be trained as a rescue worker unless—

- (i) he is certified by a qualified medical practitioner after examination in accordance with Schedule IV to these rules to be free from any organic disease or weakness, and to be fit for undertaking rescue work in a mine;
- (ii) he is considered by the Superintendent of the Rescue Station to be suitable for rescue work with breathing apparatus;
- (iii) the manager of the mine at which the person is employed certifies in writing that he has had sufficient underground experience for the purpose of rescue work; and
- (iv) he is the holder of a certificate of proficiency in first-aid from an organization approved by the Chief Inspector.

**39. Medical examination of rescue workers.**—Every rescue worker so long as he continues to practise shall be re-examined every 12 months by a qualified medical practitioner in accordance with Schedule IV to these rules, and no person shall continue to practise after re-examination unless he is certified to be fit.

**40. Instruction and Practice.**—(1) Every person selected for training in rescue work shall undergo the course of instruction and practices set out in Part I of Schedule V to these rules, until he has been certified as efficient by the Superintendent.

(2) Rescue workers who have been so certified shall undergo practices and receive instruction as set out in Part II of Schedule V to these rules.

(3) All practices required by Schedule V shall last at least two hours except on occasion when, in the opinion of the instructor, it is desirable in the interests of safety to curtail the practice. At some of the practices the breathing apparatus shall be worn continuously for two hours.

(4) A record shall be kept at every Rescue Station of all persons undergoing practices or receiving instruction in rescue work at the station. This record shall contain such particulars as the Chief Inspector may specify from time to time, including the date and character of each practice and the condition of each man after the practice, and if anything abnormal is observed in his condition, whether it is due to a defect of the apparatus or to the man himself.

**41. Code of Signals in training.**—The code of signals used in training shall be that set out in Schedule VI to these rules.

#### CHAPTER VI.—CONDUCT OF RESCUE WORK

**42. Duties of Manager or principal official present at surface in emergencies.**—On receiving information of any emergency likely to require the services of a rescue corps or brigade, the manager, or, in his absence, the principal official present at the surface shall immediately—

- (a) telephone to the Rescue Station; inform the responsible officer on duty at the Station of the character of the occurrence; state whether assistance will be needed from rescue brigades other than the permanent rescue corps, or the brigades attached to the mine;
- (b) summon the trained men attached to the mine;
- (c) summon medical assistance;
- (d) telephone to the Chief Inspector or Inspector;
- (e) if necessary, communicate with the Police Station:

Provided that if the mine is not in telephonic communication with the Rescue Station a message shall be sent by a reliable person to the nearest telephone for immediate communication to the Rescue Station and the Chief Inspector or Inspector.

**43. Entry into mines for rescue operations.**—(1) No person shall be allowed to enter a mine or part of mine which is unsafe for the purpose of engaging in rescue operations unless authorised by the manager, or, in his absence, by the principal official of the mine present at the surface. Only men trained in the use of breathing apparatus shall be permitted to enter the mine for the purpose of using such apparatus.

(2) During the progress of such operations, a person or persons shall be stationed at the entrance of the mine and required to keep a written record of all persons entering and leaving the mine.

**44. Leader.**—(1) Every corps or brigade engaged in work with breathing apparatus in a mine shall be under a leader appointed by the Superintendent of a Rescue Station.

(2) The leader shall not engage in manual work. He shall give his attention solely to directing the brigade and to maintaining its safety. He shall examine the roof and

supports during the journey in and, if there is any likelihood of a fall, shall not proceed until the brigade has made the place secure.

**45. Numbers employed.**—The number of persons in any corps or brigade using breathing apparatus in a mine shall not be less than five or more than six including the leader.

**46. Supply of Oxygen.**—If the type of apparatus admits of it, at least one person in every corps or brigade shall wear an apparatus with an extension for the supply of oxygen to another person in case of necessity.

**47. Instructions to brigade regarding rescue operations.**—(1) Prior to sending a brigade underground clear instructions shall be given by the principal official of the mine for the time being on the surface, or by a responsible person deputed by the agent or manager, to the leader of the brigade as to where it shall go and what it shall attempt.

(2) If the Superintendent of the Rescue Station serving the mine is present, the manager or the principal official in charge of the mine shall consult him before issuing such instructions.

(3) Unless the leader is personally thoroughly familiar with the roadways in question, the route to be followed shall be marked on a tracing which the leader shall take with him into the mine.

(4) The leader shall not permit the brigade to go underground until he has received such instructions and if, necessary, such tracing.

(5) The leader shall not deviate from the instructions received by him except when such deviation is necessary for the purpose of saving human life.

**48. Fresh air bases.**—(1) As soon as possible a base or bases shall be established in fresh air, as near to the irrespirable zone or zones as safety permits. Each such base shall, if possible, be connected by telephone if the base is underground to the surface or if the base is on the surface to the shaft bottom.

(2) Except in cases where the delay involved may result in danger to life, no brigade shall proceed beyond any place where a base is to be established until there have been stationed at such base the following:—

(a) two men, of whom at least one should understand rescue appliances and first-aid;

(b) a spare brigade with rescue apparatus and ready for immediate service;

(c) one or more reviving apparatus, oxygen-revivers, stretchers, and birds.

(3) Whenever men are already at work beyond the base, there shall be stationed at the base as soon as possible the persons, spare brigade, apparatus and equipment specified in clauses (a), (b) and (c) of sub-rule (2).

**49. Supply of gas-masks and arrangements at surface.**—If the manager considers it necessary for safety, persons engaged in dealing with a fire shall be equipped with gas-masks and a rescue brigade equipped with apparatus shall be maintained on the surface in case of necessity.

**50. Test of apparatus.**—Before proceeding underground the leader shall test, or witness the testing of, all rescue apparatus of the brigade. He shall check the equipment of his party, and, immediately before entering irrespirable air, shall make sure that all apparatus is working properly:

Provided that if the leader and the manager of the mine consider that in order to save life the brigade should proceed at once into the mine, this test may be dispensed with if the apparatus has previously been tested at a Rescue Station.

**51. Duties of leader underground.**—(1) If the atmosphere is clear, the leader, shall, when passing the junction of two or more roads, clearly indicate the route by means of arrow-marks in chalk. If the atmosphere is obscure the leader shall see that a life-line is led in from fresh air, and shall not allow any member of the brigade to move out of reach of that line; or, if that course is impracticable, he shall not proceed until every road branching from the route is fenced across the opening.

(2) The leader shall keep the team together and shall not allow any member of the team to stray.

(3) When using rescue apparatus the leader shall carry a watch, shall read the pressure of the compressed oxygen every 20 minutes or thereabouts, and shall commence the return journey in ample time. In travelling he shall adapt the rate to that of the slowest member. If any member of the corps or brigade is in distress, he shall immediately return to the fresh air base with the whole brigade.

(4) The leader shall not permit any corps or brigade using breathing apparatus in a mine to remain at work for longer than 1½ hours at any one time.

**52. Duties of members of rescue brigades.**—Every member of a rescue corps or brigade engaged in work with breathing apparatus in a mine shall obey the orders of the leader of the team.

**53. Travelling with rescue apparatus.**—In travelling with rescue apparatus, each member of the brigade shall keep the place given him when numbering off. If the pace is too quick, or if distress is felt, the member shall at once call attention to the fact.

**54. Restriction on second spell of work.**—No person shall commence a second or subsequent spell of work in noxious air without being examined and passed by a qualified medical practitioner, if present, or by the Rescue Station Superintendent or other competent person if a qualified practitioner be not present.

**55. Code of signals.**—Member of rescue corps or brigades shall, in general, use the signals prescribed in Schedule VI to these rules, in communicating to one another.

#### SCHEDULE I—[See Rule 32 (1)]

##### APPARATUS AND EQUIPMENT

**Minimum to be kept at each Rescue Station.**—(i) Twenty-four complete suits of breathing apparatus, with means of supplying sufficient oxygen or liquid air to enable such apparatus to be constantly used for two days, and of charging such apparatus.

If the type of apparatus admits of it, one set of apparatus in every four shall be provided with an attachment for supplying oxygen or air to any person found overcome by noxious gases in a mine.

(ii) Four smoke helmets or other apparatus serving the same purpose with not less than 120 feet of tubing for each.

(iii) Twenty electric safety lamps or electric torches of a type approved by the Chief Inspector; and 100 approved flame safety lamps.

(iv) Four oxygen reviving apparatus (not of the forced breathing type) each with a cylinder or cylinders capable of supplying at least 20 cubic feet of oxygen.

(v) Thirty gas-masks of a type approved by the Chief Inspector with two refills for each.

(vi) A first-aid box or boxes.

(vii) Fresh drinking water.

(viii) Cages of small birds for testing for carbon monoxide.

(ix) A motor ambulance or car of adequate capacity and power in constant readiness.

(x) Two portable signalling devices.

#### SCHEDULE II—[See Rule 32 (5)]

##### BREATHING APPARATUS: ADJUSTMENT AND TESTS

1. In every breathing apparatus which is arranged so as to give a uniform oxygen delivery, the reducing valve shall be so adjusted as to supply not less than two litres of oxygen per minute.

2. Every breathing apparatus shall be thoroughly tested at least once a month in the following manner, and the results of the test giving such particulars as the Chief Inspector by order in writing may specify in this behalf shall be recorded:—

(i) The apparatus shall be carefully examined in respect of its general condition and particular attention shall be given to any delicate and perishable parts.

(ii) The apparatus shall be tested for leakage by completely immersing it in water. For the purposes of this test the apparatus shall be fully distended and if it is a compressed oxygen apparatus the oxygen supply shall be turned on. The apparatus, immersed in water, shall be well shaken and closely examined in every part for leakage by the Superintendent or one of the instructors of the Rescue Station, or by the captain of the rescue brigade. If any leakage is observed the apparatus shall be deemed unsafe for use.

This test may be omitted in respect of the pack of a liquid air apparatus in so far as it would be damaged by immersion.

(iii) The pressure at which any automatic relief valve discharges shall be measured.

3. The following additional tests shall be applied to compressed oxygen apparatus:—

(i) The pressure in the oxygen cylinder shall be measured.

(ii) The rate of delivery of oxygen shall be measured by a flow-meter and if that rate is capable of being adjusted by the water of the apparatus, it shall be measured over the whole range of adjustment.

4. No breathing apparatus shall be used underground unless immediately before use it has been tested and found safe in the manner prescribed by paragraph (ii) of clause 2 of this Schedule:

Provided that as a matter of urgency to save life, this test may be omitted and a test for leakage by mouth suction applied instead.




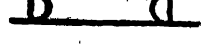
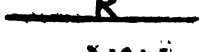




5. The oxygen in every cylinder supplied for use in connection with breathing apparatus shall be analysed before being used in a breathing apparatus, and no oxygen which is found to contain more than two per cent. of impurities shall be used. The results of every analysis giving such particulars as the Chief Inspector may require shall be recorded.

6. Flow-meters shall be tested for accuracy at least once in every six months, and the results of every test giving such particulars as the Chief Inspector may require shall be recorded.

7. Where by this Schedule any particulars are required to be recorded, they shall be recorded forthwith in a book to be kept at the station or mine as the case may be.

# SCHEDULE H1—[See Rule 37]

## CODE OF SIGNS

BRICK STONE OR CONCRETE VENTILATION STOPPINGS	...	
FIRE DAMS OR SEALS	...	
WATER DAMS	...	
DOORS	...	
REGULATORS	...	
AIR CROSSINGS	...	
TELEPHONES	...	
UNDERGROUND AMBULANCE STATION IN RED	...	
DIRECTION OF AIR CURRENT	...	
INTAKE AIRWAYS—BLUE	...	
RETURN AIRWAYS—RED	...	

## SCHEDULE IV—[See Rules 38 (2) (i) and 39]

## MEDICAL EXAMINATION

The medical practitioner shall make a thorough examination of each person to be trained or kept in training and shall devote particular attention to the following requirements:—

I. The person must be free from—

- (i) any tendency to fainting or vertigo;
- (ii) any chronic obstruction in the air passages;
- (iii) dyspnoea on light exertion;
- (iv) nystagmus; any marked degree of myopia or any other serious optical defect or disease;
- (v) deafness.

II. The person must be of good physical development and mental alertness, and capable of undergoing hard physical exertion for not less than 15 minutes without being unduly distressed or fatigued.

## SCHEDULE V—(See Rule 40)

## PART I—PRELIMINARY COURSE

The course of instruction and practices shall be as follows:—

A. *Instruction in:*—

- (i) the general methods of dealing with underground fires and the recovery of mines after fires and explosions;
- (ii) the construction, use, repair, maintenance and testing of the type or types provided of breathing apparatus and of smoke helmets or other apparatus serving the same purpose;
- (iii) the use of methods and apparatus for reviving men;
- (iv) the properties and detection of the noxious and inflammable gases which may be found in mines;
- (v) the taking of gas samples in irrespirable atmospheres;
- (vi) the reading of mine plans;
- (vii) the requirements contained in Chapter VI and Schedule VI to these rules

B. *Practices*—not less than 12 for each man with breathing apparatus and in addition not less than two for each man with smoke helmets or other apparatus serving the same purpose, in each case under conditions devised to resemble those likely to be encountered in underground operations requiring the use of such apparatus.

(a) The practices shall be carried out as follows:—

- (i) *For Permanent Rescue Corps.*—By at least five members jointly.
- (ii) *For Men from Mines to act with Rescue Corps.*—Not more than eight nor less than five men shall take part in any practice. If five men from the mine do not attend on any occasion the number may be made up by members of the permanent rescue corps. So far as practicable the same five men shall practise together as one brigade.

(b) The practices with breathing apparatus shall take place in ordinary air and shall progress gradually until practices can be carried out in a hot and irrespirable atmosphere.

(c) The practices with breathing apparatus shall comprise the following operations:—

- (i) repeatedly raising and lowering of a weight of 55 lb. to and from a height of six feet by means of a rope and pulley;
- (ii) walking continuously at a fair pace for half an hour;
- (iii) buckling and removing temporary stoppings of stone, brick, sandbags, brattice cloth, or other materials, and carrying the materials required for such operations over a distance of at least ten yards;
- (iv) removing debris in confined spaces as representing the clearing of a fall of roof;
- (v) setting timber or other roof supports;
- (vi) carrying, pushing or pulling on a stretcher a live person or dummy body weighing 150 lb. along the length of the gallery;
- (vii) the rapid establishment of communication.

## PART II—PRACTICE AND INSTRUCTION AFTER BECOMING EFFICIENT

## A. Practices.—

*Permanent Rescue Corps.*—In addition to regular practices at the Rescue Station, practices with breathing apparatus underground in a mine at least twice in each quarter and at least twelve times in each year.

*Men from Mines to act with Permanent Rescue Corps*—Practices with breathing apparatus at least once in each quarter and at least 6 times in each year, of which at least two shall take place in mines, and the remainder in a hot and irrespirable atmosphere.

## B. Instruction.—Revision of all subjects included in Part I.

## SCHEDULE VI—(See Rules 41 and 55)

## CODE OF SIGNALS

Electric Signalling	Signals	Signalling between Members of a brigade	Signals.
"Distress" or "Help Wanted"	One ring	"Distress" or "Help Wanted"	One hoot
	(IF NO ANSWER IS GIVEN to a call "Distress" is to be understood).		
"Not understood" or "Repeat the Message"	Two rings	Halt . . .	Two hoots
"No" . . . . .	Three rings	Retire . . .	Three hoots
"Yes" or "All right" or "All's well"	Four rings	Advance . .	Four hoots
To "ring up" To "ring off" . . .	Five rings	To call attention . . .	Five hoots

## COAL MINES (CONSERVATION AND SAFETY) ACT, 1952

## (XII OF 1952)

Statement of Objects and Reasons<sup>1</sup>

India's reserves of metallurgical coal (i.e., coal suitable for making hard coke required for the reduction of iron ore to pig iron in a blast furnace) are limited. A Committee set up by the Government of India in 1949 has estimated the reserves at 2 000 million tons, but has observed that, this figure may well be halved unless precautionary steps (notably compulsory stowing) are taken in mining and unless steps are taken to use blends containing weakly coking coal and to wash the inferior grades of coal. Although at the present rate of consumption, these reserves may last for many years, the position will be different if steel production in the country is stepped up. The Metallurgical Conservation Committee has estimated that if metallurgical coal requirements are increased ten-fold—and such an increase may well be called for in the interests of the industrial development of the country—the life of the metallurgical coal reserves becomes no more than 55 years. Even this period may be halved unless stowing, washing and blending are adopted forthwith. It is, therefore, necessary that scientific working and conservation should be the keynote of future policy regarding metallurgical coal.

2. The Planning Commission which examined the report of the Committee referred to, recommended that powers should be assumed by the Government by legislation for conservation of the country's resources of metallurgical coal, and the present administrative machinery should also be rationalised. The Commission accordingly suggested the establishment of a Coal Board for the purpose.

<sup>1</sup> Gazette of India, 1952, Part II, Section 2, p. 46.



3. The introduction of measures for conservation of metallurgical coal is urgent. Without such measures, the limited resources are being utilised for non-essential purposes. An Ordinance entitled the Coal Mines (Conservation and Safety) Ordinance, 1952, was accordingly promulgated, on 8th January, 1952, taking powers to introduce stowing which till then could be enforced only for safety in coal mines for conservation of coal also. To rationalise the administration a Coal Board was simultaneously established and the Coal Mines Safety (Stowing) Act, 1939, was also repealed as the relevant provisions of that statute which had to be continued had been embodied in the Ordinance.

It is now necessary that the powers assumed by the Central Government for the control and regulation of coal mines to the extent specified in the Ordinance should be continued and hence this Bill.

## COAL MINES (CONSERVATION AND SAFETY) ACT, 1952 (XII OF 1952)

### Arrangement of Sections

1. Short title and extent.
2. Declaration as to expediency of control by Central Government
3. Definitions.
4. Establishment of the Board.
5. Functions of the Board.
6. Powers of the Board in executing operations.
7. Powers of Central Government in respect of safety in coal mines and conservation of coal.
8. Imposition of excise duties.
9. Imposition of customs duty.
10. Collection of excise duties.
11. Payment to the Coal Board.
12. Money received by the Board to be credited to the Fund
13. Powers of Inspectors.
14. Application of Act IV of 1923.
15. Advisory Committees.
16. Protection of action taken in good faith.
17. Power to make rules.
18. Act to apply to Government coal mines
19. Repeals and savings.

## COAL MINES (CONSERVATION AND SAFETY) ACT, 1952 (XII OF 1952)<sup>1</sup>

[4th March, 1952]

*An Act to provide for the conservation of coal and make further provision for safety in coal mines.*

Be it enacted by Parliament as follows:—

1. **Short title and extent.**—(1) This Act may be called the Coal Mines (Conservation and Safety) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. **Declaration as to expediency of control by Central Government.**—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of coal mines to the extent hereinafter provided.

3. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Board" means the Coal Board established under section 4;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1952, Part II, Section 2, page 46; see also page 395 ante.

- (b) "blending" means the process of intimately mixing different varieties of coal so as to provide a mixture which on carbonisation results in coke, which, in the opinion of the Board, is suitable for being used in metallurgical industries, particularly in iron and steel industries;
- (c) "coal" includes coke in all its forms;
- (d) "coking coal" means such type of coal from which on carbonisation coke suitable, in the opinion of the Board, for being used in metallurgical industries, particularly in iron and steel industries, can be prepared;
- (e) "Chief Inspector" and "Inspector" mean the persons respectively appointed as the Chief Inspector of Mines and Inspector of Mines under sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923) and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Act or the rules made thereunder;
- (f) "Fund" means the Coal Mines Safety and Conservation Fund constituted under section 12;
- (g) "India" means the territory of India excluding the State of Jammu and Kashmir.
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "soft coke" means all coke which is unsuitable for being used in metallurgical industries, and "hard coke" means all coke which is not soft coke;
- (j) "stowing" means the operation of filling with sand or any other material or with both spaces left under-ground in a coal mine by the extraction of coal;
- (k) "washing" means such a process or a combination of processes as may be approved in this behalf by the Board by which the whole or any part of the shaley and mineral matter found in the coal is removed therefrom;
- (l) "agent", "mine" and "owner" have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 (IV of 1923).

**4. Establishment of the Board.**—(1) There shall be established a Board, to be called the Coal Board, and such Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Board shall consist of a Chairman and such number of other members, not exceeding six, as the Central Government may think fit to appoint and the members (including the Chairman) shall hold office during the pleasure of the Central Government for any period not exceeding five years and shall be eligible for re-appointment:

Provided that the Chairman or any other member of the Board may resign his office by giving notice in writing to the Central Government and shall, on such resignation being accepted by that Government, be deemed to have vacated his office.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members (including the Chairman) or any defect in the constitution thereof.

**5. Functions of the Board.**—(1) The Board may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and discharge such duties as may be assigned to it by or under this Act.

(2) The Central Government may, by general or special order, delegate to the Board, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Act or under any other law for the time being in force as it may deem necessary for effectively dealing with problems relating to safety in coal mines or conservation of coal and matters connected therewith or incidental thereto.

**6. Powers of the Board in executing operations.**—(1) If in the opinion of the Board, it is necessary or desirable that any measures, including stowing, required in furtherance of the objects of this Act should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section, the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work has to be done, and to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section and no person shall remove or tamper with any plant or machinery or any stowing or other materials used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**7. Powers of Central Government in respect of safety in coal mines and conservation of coal.**—(1) The Central Government may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and take or cause to be taken all such measures as it may deem necessary or proper or as may be prescribed.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such measures as it may think necessary for the purpose of maintenance of safety in coal mines or for conservation of coal, including—

- (a) in any coal mine, stowing for safety; or
- (b) without prejudice to any order under clause (a), in the case of any coal mine producing coking coal or producing coal which on beneficiation is likely to yield coking coal or producing coal suitable for blending, stowing for conservation; or
- (c) washing of coal with a view to beneficiating and reducing the ash contents of coal and improving its coking qualities.

**8. Imposition of excise duties.**—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected—

- (a) on all coal raised and despatched, and on all coke manufactured and despatched, from the collieries in India, such duty of excise not exceeding one rupee per ton as may be fixed from time to time by the Central Government by notification in the Official Gazette, and different rates of duty may be levied on different grades or descriptions of coal or coke:

Provided that the Central Government may, by general or special order, exempt any special grade or grades or description of coal or coke from the levy of such duty of excise;

- (b) on all coking coal raised and despatched from the collieries in India, such additional duty of excise not exceeding five rupees per ton in the case of coal of Selected Grade A or Selected Grade B, and not exceeding two rupees per ton in the case of coal of Grade I, as may be fixed from time to time by the Central Government by notification in the Official Gazette.

*Explanation.*—Coal of Selected Grade A, Selected Grade B and Grade I means coal graded as such under the Colliery Control Order, 1945.

(2) Where coking coal, in respect of which an additional duty of excise has been levied and collected under clause (b) of sub-section (1), is despatched to any person for use in India and—

(a) the use of coking coal is, in the opinion of the Central Government, essential for carrying on any industrial or other process in which such person is engaged; or

(b) the despatch of the coking coal is made under the orders of the Board, although it was not specifically indented for by such person;

then, the Central Government shall cause to be paid to that person a sum equivalent to the additional duty of excise so collected on the coking coal received and used by that person.

(3) All notifications issued under this section shall be laid, as soon as may be, before Parliament.

**9. Imposition of customs duty.**—During the period in which any duty of excise is being levied under section 8, the Central Government may, by notification in the Official Gazette, impose on all coal (including soft and hard coke) imported or brought into India from any place outside India, a duty of customs (which shall be in addition to any duty of customs for the time being leviable under any other law), at rates equivalent to the rates of duties of excise levied under section 8.

**10. Collection of excise duties.**—The duties of excise levied under section 8 shall be collected by such agencies and in such manner as may be prescribed.

**11. Payment to the Coal Board.**—The Central Government may, in each financial year, pay to the Board a sum not exceeding the net proceeds (determined in such manner as may be prescribed) of the duties of excise collected under section 8 during the preceding financial year.

**12. Money received by the Board to be credited to the Fund.**—(1) The sum referred to in section 11 and any other money received by the Board shall be credited to a Fund to be called the Coal Mines Safety and Conservation Fund which shall be applied by the Board, in such manner and subject to such conditions as may be prescribed, to—

- (a) meeting the expenses in connection with the administration of the Board and the furtherance of the objects of this Act;
- (b) the grant of stowing materials and other assistance for stowing operations to the owners, agents or managers of coal mines;
- (c) the execution of stowing and other operations in furtherance of the objects of this Act;
- (d) the prosecution of research work connected with safety in coal mines or conservation and utilisation of coal;
- (e) meeting the cost of administering the Fund and the expenses in connection with Advisory Committees;
- (f) the grant to State Governments, research organisations, local authorities and owners, agents or managers of coal mines of money in aid of

any scheme approved by the Central Government in furtherance of the objects of this Act;

(g) any other expenditure which the Central Government directs to be defrayed out of the Fund.

(2) The Board shall keep accounts of the Fund, and such accounts shall be examined and audited by the Comptroller and Auditor-General of India at such times and in such manner as he deems fit and the report of the Comptroller and Auditor-General of India shall be laid, as soon as may be, before Parliament.

**13. Powers of Inspectors.**—(1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act or of any rules and orders made thereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which assistance is being, or has been, given under this Act, in order to ascertain the amount of sand or other materials used in stowing in the mine or to ensure that stowing or any other operation towards which assistance may be granted under this Act, has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

(3) Without prejudice to the provisions of section 19 of the Indian Mines Act, 1923 (IV of 1923), the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

(a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger human life or the mine, or

(b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of any part of the mine or for restricting the area that might be affected by fire or flooding, as the case may be.

(4) The powers conferred on the Inspector under sub-sections (1), (2) and (3) may also be exercised by such officers of the Board suitably qualified in this behalf as the Central Government may, by notification in the Official Gazette, specify in this behalf.

**14. Application of Act IV of 1923.**—The provisions of sub-sections (3) to (6) (both inclusive) of section 19 of the Indian Mines Act, 1923 (IV of 1923), shall apply to an order made under sub-section (3) of section 13 of this Act as they apply to an order made under sub-section (2) of section 19 of that Act, and all the provisions of the Indian Mines Act, 1923 except sub-section (1) of section 11 thereof, affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply, so far as may be, to a committee appointed to inquire into a reference under this Act and to the disposal of such reference:

• Provided that the power conferred by the proviso to sub-section (6) of the said section 19 to suspend the operation of a requisition under sub-section (1) of that section shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 13 of this Act.

**15. Advisory Committees.**—(1) The Central Government may, by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such number of persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of the Advisory Committees to advise the Central Government or the Board in regard to any matter connected with the administration of the Act in respect of which their advice is sought by the Central Government, or, as the case may be, by the Board.

**16. Protection of action taken in good faith.**—No suit, prosecution or other legal proceedings shall lie against the Chairman or any other member of the Board or any officer thereof or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

**17. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the measures to be taken for the purpose of maintenance of safety in coal mines or for the conservation of coal;
- (b) the levy, collection and payment of the duties of excise and the imposition, collection and payment of the duty of customs;
- (c) the appointment and terms and conditions of service of the Chairman and other members of the Board;
- (d) the powers and functions of, and the conduct of business by, the Board;
- (e) the determination of the net proceeds of the duties of excise for the purposes of section 11;
- (f) the manner in which, and the conditions subject to which, sums at the credit of the Coal Mines Safety and Conservation Fund may be applied;
- (g) the form in which the accounts of the Fund shall be kept;
- (h) the composition of any committee of inquiry which may be appointed to inquire into a reference arising out of an order passed under subsection (3) of section 13, the technical qualifications to be possessed by persons nominated thereto, and the powers and duties of such committee;
- (i) the composition of Advisory Committees, their functions, and the terms and conditions of service of members thereof;
- (j) recruitment of officers and staff to be appointed by the Board;
- (k) any other matter which has to be, or may be, prescribed.

(3) Any rule made under the provisions of this Act may provide that the contravention thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

**18. Act to apply to Government coal mines.**—This Act applies also to coal mines belonging to the Government.

**19. Repeals and savings.**—(1) The Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) and the Coal Mines (Conservation and Safety) Ordinance, 1952 (I of 1952) are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any rules, notifications or orders made or issued) in the exercise of any power

conferred by or under the said Act or Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

(3) As from the 8th day of January, 1952, all the moneys lying to the credit of the Coal Mines Stowing Fund under the Act hereby repealed shall be deemed to have been transferred to, and to vest in the Board and to form part of the Coal Mines Safety and Conservation Fund.

## COAL MINES CONSERVATION AND SAFETY RULES, 1954

### Arrangement of Paragraphs

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1. Short title and extent.
2. Definitions.

#### CHAPTER II—THE BOARD AND ITS PROCEDURE

3. Time and place of meetings.
4. Notice of meetings.
5. Presiding at meetings.
6. Quorum.
7. Disposal of business.
8. List of business.
9. Decision by majority.
10. Record of business.
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12. Salary and allowances of the Chairman.
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#### CHAPTER III—COMMITTEES OF ENQUIRY

17. Committee of Enquiry.
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#### CHAPTER IV—ADVISORY COMMITTEES

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60. Keeping auditing and publication of accounts.
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### COAL MINES CONSERVATION AND SAFETY RULES, 1954<sup>1</sup>

In exercise of the powers conferred by section 17 of the Coal Mines (Conservation and Safety) Act, 1952 (XII of 1952), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

### COAL MINES CONSERVATION AND SAFETY RULES

#### CHAPTER I—PRELIMINARY

1. **Short title and extent.**—(1) These rules may be called the Coal Mines (Conservation and Safety) Rules, 1954.
- (2) They extend to the whole of India except the State of Jammu and Kashmir.
2. **Definitions.**—In these Rules, unless the context requires otherwise,—
  - (a) "Act" means the Coal Mines (Conservation and Safety) Act, 1952 (XII of 1952);
  - (b) "Central Government" includes in relation to functions delegated under sub-section (2) of section 5 of the Act to the Board, the Board acting within the scope of the authority given to it under that sub-section;
  - (c) "Chairman" means the Chairman of the Board;
  - (d) "Member" means a member of the Board appointed under Section 4 of the Act;
  - (e) "Month" means a month reckoned according to the British Calendar;
  - (f) "Section" means a section of the Act;
  - (g) "Treasury" means any Government Treasury or sub-treasury.

#### CHAPTER II—THE BOARD AND ITS PROCEDURE

3. **Time and place of meetings.**—(1) The Chairman may at any time call a meeting of the Board and shall do so if a requisition for that purpose is presented to him by three or more members.
- (2) The meetings of the Board shall, unless the Chairman in any case otherwise directs, be held in Calcutta.

<sup>1</sup> These Rules were published under the Ministry of Production Notification No. S.R.O. 3146, dated the 25th September, 1954.



**4. Notice of meetings.**—As far as possible notices of the time and place of any intended meeting of the Board signed by the Chairman or the Secretary shall be delivered at or posted to the usual place of residence of every member present in India not less than seven clear days before the date of the meeting. Provided that an emergent meeting may be called by the Chairman at any time.

**5. Presiding at meetings.**—The Chairman shall preside at every meeting of the Board at which he is present. If the Chairman is absent from a meeting and it is not expedient to adjourn the meeting the members present shall elect one of their member to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

**6. Quorum.**—No business shall be transacted at a meeting of the Board unless at least three members including the Chairman are present:

Provided that if at any meeting less than three members including the Chairman are present, the Chairman may adjourn the meeting to a date not less than seven days later and inform the members present and notify other members that he proposes to dispose of the business at the adjourned meeting irrespective of there being a quorum, and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number attending.

**7. Disposal of business.**—(1) Every question upon which the Board is required to deliberate shall be considered either at its meetings or, if the Chairman so directs, by sending the necessary papers to members for opinion:

Provided that the papers need not be sent to any member who is absent from India.

(2) When a question is referred for opinion, any member may request that the question be considered at a meeting of the Board, and thereupon the Chairman may, and if the request is made by three or more members shall direct that it be so considered.

**8. List of business.**—(1) The Chairman shall send or cause to be sent to each member present in India, along with the notice of the meeting or as soon as possible thereafter, a list of business to be disposed of at that meeting.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman.

**9. Decision by majority.**—(1) Every question at a meeting of the Board shall be decided by a majority of votes of the members present and voting on that question.

(2) Every question referred to the members for opinion shall, unless the Chairman reserves it for consideration at a meeting be decided in accordance with the opinion of the majority recording opinions.

(3) In the case of an equal division of votes the Chairman shall exercise an additional vote and in the case of an equal division of opinion, the opinion of the Chairman shall prevail.

**10. Record of business.**—A record shall be maintained of all business transacted by the Board, copies of which shall be submitted to the Central Government.

**11. Revision.**—(1) The Central Government may for reasons to be recorded in writing review any decision of the Board and pass such orders in the matter as it thinks fit.

(2) The Board shall give effect to all orders passed by the Central Government under sub-rule (1).

**12. Salary and allowances of the Chairman.**—(1) The Chairman shall be paid such salary and allowances from the Fund as the Central Government may from time to time fix.

(2) The Chairman shall also be paid from the Fund travelling allowances for journeys performed by him in his official capacity, at the same rates and on the same conditions as are prescribed by rules in the case of officers in the employ of the Central Government drawing the same salary as the Chairman.

(3) When the Chairman is in the permanent service of the Government contributions on account of the Chairman's pension, Provident Fund, leave salary and passages shall be paid from the Fund at such rates as may be fixed by the Central Government.

(4) Save and except as permitted by the Central Government the Chairman shall not engage in any trade or profession or undertake any employment or duties other than his duties under the Board.

(5) In any case not provided for in sub-rule (3), the Central Government may grant to the Chairman leave on like terms and conditions as are prescribed by the Central Government. Leave salary payable in respect of such leave may be paid from the Fund.

**13. Powers and duties of the Chairman.**—(1) The Chairman shall be responsible for the proper functioning of the Board and the implementation of its decisions and the dis-

charge of its duties under the Act and he may in his discretion refer any matter to the Central Government for orders.

(2) Subject to the control of the Chairman the Secretary or such other officer as may be appointed for the purpose of this rule, shall be the Principal Executive Officer of the Board and, as such, he shall—

- (a) present all important papers and matters to the Board as early as practicable;
- (b) issue directions as to the method of carrying out the decisions of the Board;
- (c) grant or subject to a resolution by the Board authorise some other person to grant, receipts on behalf of the Board for all moneys received under the Act;
- (d) maintain or cause to be maintained an account of the receipts and expenditure of the Board; and
- (e) present an annual draft report on the working of the Board to the Board for approval and submit the report in the form approved by the Board to the Central Government.

(3) The Chairman may sanction expenditure on contingencies supplies and services and purchase of articles required for the working of the office of the Board and required for the execution of measures in furtherance of the objects of the Act subject to budget provisions to the condition that the expenditure on any single object or item of work does not exceed Rs. 1,000:

Provided that the Chairman may in writing delegate such of his powers under this sub-rule to the Secretary or other officer of the Board as he considers appropriate.

**14. Secretary to the Board.**—(1) The Secretary to the Board shall be a person appointed by the Central Government in consultation with the Board and his remuneration and terms of service shall be as laid down by the Central Government.

(2) The Secretary shall perform such duties as are imposed upon him by these rules and such other duties as may be assigned to him by the Board or by the Chairman.

**15. Board's establishment.**—(1) (a) The Board shall, from time to time appoint such other establishment and fix the salaries and allowances of all officers and servants to be employed by it, and may require security to be taken from such of them and to such amount as it thinks fit; the scales of pay allowed by the Board for the staff shall, as far as possible, correspond to the scales applicable to similar posts under the Government of India:

Provided that no post the maximum salary of which exceeds rupees five hundred per mensem shall be created without the previous sanction of the Central Government.

(b) The posts of officers of the Board shall be divided into two classes corresponding to class I and II posts of Gazetted officers of the Central Government.

(2) (a) All vacancies for direct recruitment of officers and staff of the Board shall be advertised in the principal newspapers in India and simultaneously notified to the Regional Employment Exchange at Calcutta.

(b) A statement of all applications received from candidates and recommendations from the Employment Exchange shall be placed before a Selection Committee appointed by the Board. The Selection Committee shall recommend to the Chairman candidates suitable for the appointment in order of merit after examining the applications and interviewing or testing the candidates:

Provided that the Board shall act as the Selection Committee in respect of appointments to the posts of officers.

(c) If a vacancy in the Board's establishment is to be filled up by promotion, the cases of all the candidates for promotion shall be examined by a Promotion Committee set up by the Board and the recommendations of the Committee shall be placed before the authority competent to make the appointment.

Provided that for appointments to the posts of officers the Board shall perform the functions of the Promotion Committee.

(3) Subject to the scale of establishment fixed under sub-rule (1) and subject to the provisions of sub-rule (2) the Chairman shall have power to appoint, dismiss, suspend, reduce or grant leave to any person in the service of the Board:

Provided that—

- (i) no person shall be appointed to, or dismissed from, an office the maximum salary of which exceeds rupees five hundred without the sanction of the Central Government;
- (ii) no person shall be appointed to, or dismissed from, an office the maximum salary of which exceeds rupees two hundred and fifty but does not exceed rupees five hundred without the sanction of the Board at a meeting:

(iii) the grant of leave, pay and allowances to officers and servants of the Board, who are not Government servants, shall be regulated by rules made by the Board; and

(iv) the grant of leave, pay and allowances to a Government servant, whose services have been lent or transferred to the Board shall be regulated according to the appropriate rules framed by the Central Government and applicable to such Government servant.

(4) In exercising the powers conferred by clause (c) of sub-rule (2) the Board shall apply the principles of the rules, framed by the Central Government for the corresponding classes of Government servants.

(5) Save with the previous sanction of the Central Government, no travelling allowance shall be paid to any officer or servant of the Board in excess of the amount which would be admissible under the Supplementary Rules framed by the Central Government to a Government servant of the corresponding grade.

**16. Allowances of members.**—(1) A Government servant appointed as a member shall be paid for attending a meeting of the Board such travelling allowance from the Fund as would be admissible to him under the appropriate rules if the journey had been performed on Government duty.

(2) A member performing a journey on the business of the Board with the approval of the Chairman shall be paid from the Fund, such travelling allowance as would be admissible to him under the appropriate rules if the journey had been performed on Government duty.

#### CHAPTER III—COMMITTEES OF ENQUIRY

17. (1) The Central Government may appoint a Committee of Enquiry to inquire into a reference arising out of an order under sub-section (3) of section 13 and such Committee shall consist of—

(a) the Chairman or a member of the Board as Chairman;

(b) (i) a person holding a first class colliery manager's certificate of competency nominated by the Chairman and qualified by experience to dispose of the question referred to the Committee;

(ii) a person who shall be appointed to represent the interest of persons employed in the mine.

(2) No person shall be appointed to the Committee who is an officer of the Board or of the Department of Mines.

18. (1) The Committee shall hear and record such information as the Board or the owner, agent or manager of the coal mine concerned may place before it; and may also obtain the opinion of such other person as it may deem appropriate.

(2) The Committee shall report its findings to the Central Government.

(3) On receiving such report the Central Government may pass such orders as it deems appropriate.

(4) The decision of the Central Government shall be binding on the Board and the owner, agent or manager of the coal mine.

19. The Members of a Committee of Enquiry shall be paid from the fund such remuneration, in addition to their actual travelling expenses in connection with the work of the Committees, as the Central Government may fix.

#### CHAPTER IV—ADVISORY COMMITTEES

[Constituted by the Central Government under Section 15(1) of the Act]

**20. Technical Advisory Committee (Mining).**—(1) The Technical Advisory Committee (Mining) shall be composed of the following members:—

(a) a technically qualified member of the Board or a person nominated by the Board—Chairman;

(b) the Chief Inspector of Mines or an Inspector nominated by him;

(c) the Mining Adviser, Government Railways or a person, in the service of Government having suitable mining qualifications nominated by the Board;

(d) Director of Geological Survey of India or his nominee;

(e) such representatives of the mining or labour interests concerned as the Committee or the Board may deem necessary and appropriate to co-opt for its deliberations;

An Inspecting Officer of the Board will act as Secretary to the Committee.

(a) The Committee will advise the Board in matter arising out of conservation of coking coal and certain aspects of stowing and the terms of reference to the Committee shall be as follows:—

- (a) to recommend raising quotas in each colliery working Selected 'A', Selected 'B' Grade I and Grade II coking coal and such other coal, as may be specified by the Board from time to time, consistent with safety and future extraction without undue loss of coal and undue increase in cost;
- (b) to examine the economics of restrictions of output of coking coal and the effect of such restriction on the cost of production of the colliery.
- (c) to examine or assess the necessity of and to advise on mining in the colliery, in which restriction of output is recommended, of other seams having coking coal or coal which on beneficiation is likely to yield coking coal or coal suitable for blending or coal of any other variety, including non-coking coal;
- (d) to advise on the necessity and extent of stowing for safety or conservation of coal;
- (e) to examine or assess the necessity of installation of beneficiation plant at collieries where such beneficiation is likely to yield economically coking coal or coal suitable for blending;
- (f) to advise on other allied or incidental matters which may be specifically referred to the Committee by the Board.

(3) The Committee may consult or obtain information from such persons as it deems appropriate.

**21. Advisory Committee on Stowing.**—(1) The Advisory Committee on stowing shall be constituted as follows:—

- (a) a member of the Board nominated by the Board—Chairman;
- (b) the Chief Inspector of Mines in India or his nominee;
- (c) the Director, Fuel Research Institute or his nominee;
- (d) two representatives to be nominated by the Indian Mining Association and one representative each by the Indian Mining Federation and Indian Colliery Owners' Association.

An officer of the Coal Board shall be nominated as Secretary of the Committee by the Chairman.

(2) Each nominated member may be assisted by one adviser to be nominated by the respective associations, who shall possess a first class colliery manager's certificate of competency and have knowledge of stowing.

(3) A nominated member shall hold office for a period of one year and shall be eligible for re-nomination.

(4) A nominated member may resign his office by letter addressed to the Chairman of the Board.

(5) Not later than 15 days after the occurrence of a vacancy in the case of a nominated member or at any time within one month of the date when a vacancy will occur in the ordinary course of events the body concerned shall on receipt of advice from the Board communicate to the Chairman a nomination to fill the vacancy and the nomination shall be effective when accepted by the Central Government.

(6) The Committee shall advise the Board on such matters, relating to stowing for safety and conservation in coal mines and the grant of assistance for stowing in coal mines, as may be referred to it by the Board.

**22. The Research Advisory Committee.**—(1) The Research Advisory Committee shall be composed of the following members:—

- (a) a member of the Board nominated by the Board—Chairman.
- (b) the Chief Inspector of Mines in India;
- (c) the Director, Fuel Research Institute;
- (d) the Principal, Indian School of Mines and Applied Geology;
- (e) the Principal, College of Mining and Metallurgy, Benares Hindu University;
- (f) two Mining Engineers having special knowledge of stowing and research connected therewith to be nominated by the Board.

An officer of the Board shall be nominated as Secretary to the Committee.

(2) The members of the Committee except the Chairman, the Chief Inspector of Mines in India, the Director, Fuel Research Institute and the Principal, Indian School of Mines and Applied Geology shall hold office for a period of 3 years but shall be eligible for re-appointment.

(3) The Committee shall advise the Board regarding the nature and extent of research to be undertaken by the Board, the problems to be investigated, the schemes of research to be assisted by the Board and also examine periodically the reports submitted by the Investigating Officer.

(4) The Committee shall publish half-yearly reports showing the research work done by it and the use to which such research work has been put by the collieries.

**23. General.**—(1) Each non-official member including a co-opted member of an Advisory Committee shall be paid for attending a meeting of the Committee such remuneration as may be fixed by the Central Government and the actual travelling expenses incurred by him in attending a meeting or for any other purpose in connection with the business of the Committee.

(2) Each Government servant appointed or co-opted as a member of a Committee shall be paid for journeys connected with the business of the Committee such travelling allowance from the funds of the Board as may be admissible to him under the appropriate rules if the journey had been performed on Government duty.

(3) Travelling allowance and remuneration at such scales as may be fixed by the Board with the approval of the Central Government may also be paid to such other persons as with the approval of the Board are required to assist or advise the Board or any of the Advisory Committees.

(4) The Chairman of the Board may issue instructions regarding the conduct of the business of the Committees, maintaining records of the proceedings of the Committees and such other matters as he may deem appropriate.

(5) All proceedings of meetings of the Advisory Committees and all recommendations of the Committees shall be placed before the Board.

#### CHAPTER V—LEVY AND COLLECTION OF EXCISE DUTY

**24. Recovery of excise duty.**—(1) The duties of excise imposed under section 8 on on coal and coke shall be recovered:—

(i) When such coal or coke is despatched by rail from collieries by the Railway administrations concerned, by means of surcharge on freight:—

(a) from the consignor, if the freight charges are being prepaid at the forwarding station,

(b) from the consignee, if the freight charges are collected at the destination of the consignment,

(c) from the party paying the freight, if the consignment is booked on the "weight only" system:

Provided that in all cases where coal or coke is despatched by rail from collieries to any station outside India, the duty of excise shall be recovered from the consignor at the forwarding station.

(ii) When such coal or coke is despatched from collieries by means other than rail, namely, by road, river and tramway from the owner of the colliery concerned and collected in the manner provided in rules 29 to 31.

(2) In calculating the amount of duty of excise payable on any one consignment any fractions of an anna shall be rounded off to the nearest anna.

**25. Declaration by consignor.**—All consignments of coke from collieries tendered for despatch by rail, shall be accompanied by a declaration advice note in which the consignor or his agent shall describe the consignment as either "soft coke" or "hard coke", according to the nature of the consignment.

**26. Weight for charge.**—For the purpose of the levy of the excise duties, the actual weight of a consignment rounded off to the nearest ton shall be taken into account.

**27. Remittance of excise duty.**—The total amount of excise duty collected by each Railway administration less—

(a) refunds and the amounts written off authorised by the Railway administration under sub-rule (1) of rule 28,

(b) a deduction of such percentage, as the Central Government may, by notification in the official Gazette, fix towards the cost of collection,

shall under advice to the Accountant-General, West Bengal and the Chairman, Coal Board be remitted quarterly to the Reserve Bank of India at Calcutta for the credit of the Central Government in a special account.

**28. Refunds and Recoveries.**—(1) Where the amount of the excise duty due under these rules has not been collected either wholly or in part or where the amount collected is in excess of the amount due, the Railway administration shall deal with the undercharge or overcharge, as the case may be, on the same principles as apply to undercharges or overcharges in regard to Railway freight charges.

(2) When it is proved to the satisfaction of the Board or any person authorised in this behalf by the Board, that any coal, on which the duty of excise under clause (a) sub-section (1) of section 8 had previously been collected, has been used in the manufacture of any coke on which also the duty has been collected, the Board or the person authorised in this behalf by the Board may order refund of an amount equal to the duty collected on such coal to the person from whom such duty was collected.

(3) A similar refund on the conditions mentioned in sub-rule (2) may be allowed in respect of the duty of excise collected on raw coal during its transport to a washery in cases where duty of excise is again collected on the washed coal despatched from the washery to the consuming centres:

Provided that—

(i) no claim for such refund shall be entertained unless it is preferred within one year from the end of the quarter to which the claim relates; and

(ii) refunds under this sub-rule shall be allowed after deductions of such percentage as the Central Government may by general or special order fix as the cost of calculation of such duty.

(4) When it is proved to the satisfaction of the Board or any person authorised in this behalf by the Board that coking coal in respect of which an additional duty of excise has been levied and collected under clause (b) of sub-section (1) of section 8 is despatched to any person for use in India and—

(a) the use of coking coal is, in the opinion of the Central Government or if the power is delegated to the Board in the opinion of the Board essential for carrying on any industrial or other process in which such person is engaged; or

(b) the despatch of the coking coal is made under orders of the Board, although it was not specifically indented for by such persons:

the Board may order the payment to that person of a sum equivalent to the additional duty of excise collected on the coking coal received and used.

(5) The Board may determine the procedure for submission of claims for refund of excise duty under sub-rules (2), (3) and (4).

**29. Collection and assessment of excise duty on coal/or coke despatched by means other than rail, namely, road, river and tramway, etc.**—(1) Every owner, agent or manager of a colliery shall maintain a register in such form as may be determined by the Board showing quantities of coal, soft coke or hard coke despatched during a month by means other than rail. The amount of excise duty payable during a month at the rates prescribed under section 8 shall be calculated and recorded by the owner in the register itself.

(2) Every owner shall be deemed to have been provisionally assessed to an amount calculated and recorded under sub-rule (1) as payable during a month and he shall pay the same into the treasury, the remittance being creditable to the Central Government in a special account. The payment shall be made on or before the last day of the month following the month for which payment is due.

(3) The payment under sub-rule (2) shall be made by means of a challan. The treasury shall return two copies of the challan to the depositor who shall keep one copy for himself and transmit the other copy under sub-rule (4) to the Chairman.

(4) Every owner of a colliery shall submit to the Chairman such monthly return as may be prescribed by the Board showing quantities of coal, soft coke or hard coke despatched during a month by means other than rail, the amount paid under sub-rule (2) and other particulars. The return shall be supported by a copy of the challan returned under sub-rule (3) by the treasury. The Board may determine the manner in which such monthly return shall be submitted.

(5) The return under sub-rule (4) shall be submitted so as to reach the Chairman on or before the last day of the month following the month for which it is due.

(6) (a) The final assessment of the excise duty due from a colliery under clause (ii) of sub-rule (1) rule 24 shall be made by the Chairman after examination of the said return and/or other relevant documents if any, as may be available. For the purpose of final assessment under this sub-rule the Chairman may depute a duly authorised officer to inspect and examine the account books and other records maintained at the premises of

the colliery or may require by notice in the form and manner prescribed by the Board, the owner to produce either personally or by his authorised representative the said records before the authorised officer at the time and place (with the District in which the colliery is situated) specified in the notice. The officer deputed by the Chairman shall be afforded all the necessary facilities at the premises of the colliery for the purpose of inspection and examination under this sub-rule.

(b) if the owner has paid under sub-rule (2) and has submitted return under sub-rule (4) the Chairman shall either confirm that the amount of duty provisionally assessed under sub-rule (2) is final and send an intimation to that effect to the owner concerned or where necessary shall assess the additional amount and issue a notice in the form prescribed by the Board calling upon the owner to pay into the treasury by a specified date the further amount in the manner provided in sub-rule (3).

(c) If the owner has not made any payment under sub-rule (2) and has not submitted a return under sub-rule (4) the Chairman shall, after giving the owner a reasonable opportunity of being heard in the manner determined by the Board assess him to such an amount of excise duty as in his opinion is fit and proper and issue a notice in the form determined by the Board calling upon him to pay the full amount into the treasury by a specified date in the manner provided in sub-rule (3).

**30. Recovery of unpaid excise duty.**—(1) Any dues of excise duty remaining unpaid after the date specified by the Chairman shall be recovered from the owner as an arrear of land revenue and shall be credited to the Central Government.

(2) The Chairman shall apply to the Collector of the District in which the colliery is situated for the recovery of the amount of excise duty remaining unpaid.

(3) The Collector shall by the 10th of each month send monthly reports to the Chairman showing the amount recovered and deposited in the treasury.

**31. Review of assessment of excise duty.**—(1) Any owner may submit an application to the Chairman, for a review of an order of assessment under clause (b) and clause (c) of sub-rule (6) of rule 29 of excise duty within 30 days of receipt of notice of such assessment:

Provided that no such application shall be entertained unless the amount assessed has already been paid in the manner provided in sub-rule (3).

(2) If it is proved to the satisfaction of the Chairman that the excise duty assessed and paid by any owner is in excess of the amount due, he shall order the refund to the owner of such amount as may have been paid in excess.

(3) If, on the other hand, the Chairman is satisfied after examination of the records in his office and after hearing the owner that the assessment has been made correctly he shall confirm his order of assessment and the order of the Chairman shall be final.

**32. Determination of the net proceeds of the duty of excise.**—(1) For the purpose of section 11, the net proceeds of the duty of excise realised under section 8 in a financial year shall be determined separately in respect of each Railway administration collecting such duty and certified as soon as possible after the close of the financial year by such officers as the Central Government may appoint in this behalf.

(2) In determining the net proceeds under sub-rule (1) the officers shall take into account the total amount of the duty collected, the refunds granted and the amounts written off sanctioned by the Railway administration during the year, and the deduction towards the cost of collection fixed by the Central Government in accordance with these rules.

(3) The proceeds of excise duty collected in a financial year on coal, soft coke or hard coke despatched by means other than rail shall be determined and certified as soon as possible after the close of the financial year by such officer as may be appointed by the Central Government.

(4) The certificates under sub-rule (1) shall be sent to the Central Government and copies thereof to the Accountant General, West Bengal and the Coal Board and the certificate under sub-rule 3 shall be sent to the Central Government and copies thereof to the Accountant General concerned and the Coal Board by the officers concerned.

#### CHAPTER VI—POWERS OF THE BOARD: PENALTIES TO BE IMPOSED, ETC.

**33. Coal samples for analysis.**—(1) The Board may for determining the grade and type of coal in any coal mine authorise in writing any Technical Officer of the Board or of the Central Government suitably qualified in this behalf to draw samples of coal for analysis from any seam or section of a seam of the coal mine and the owner, agent or manager, of the coal mine shall afford reasonable facilities to the officer so authorised for the collection of such samples.

(2) Grading will be done in accordance with the specifications prescribed by the Central Government from time to time for the purposes of the Colliery Control Order, 1945.

**34. Duties regarding information and inspection.**—(1) Every owner, agent or manager of a coal mine shall on request promptly furnish to the Board such information and plans as may be required by the Board for any purpose in furtherance of the objects of the Act.

(2) Every owner, agent or manager of a mine shall afford the members of the Board or of any Advisory Committee constituted by the Central Government under section 15 of the Act or any person duly authorised by the Board all reasonable facilities as may be necessary for carrying out the objects of the Act.

**35. Orders for stowing for safety.**—(1) Any order issued by a competent authority under sub-section (3) of section 13 of the Act shall be complied with by the owner, agent or manager of a colliery within the period prescribed therein and failure to do so shall be deemed to be a contravention of this rule.

(2) Before an order is issued by the Board in exercise of the powers delegated to it by the Central Government for stowing for safety under clause (a) of sub-section (2) of section 7 or by an officer duly authorised under sub-section (4) of section 13, a duly qualified Inspecting Officer of the Board shall be deputed to inspect the mine and draw up plans of the areas to be stowed and to submit a report to the Board giving the details of the danger to the mine or neighbouring mines, the period within which stowing should be done, the areas to be stowed, the material to be used, the method of stowing to be adopted and the estimated cost of such stowing.

(3) The report may be referred by the Board to an Advisory Committee constituted under section 15 and the views of the Advisory Committee shall be considered by the Board.

(4) An order for stowing for safety shall detail the measures to be undertaken by the owner, agent or manager of the coal mine and the reasons therefor and the dates within which they should be commenced and completed and shall be accompanied by the plan of the area to be stowed.

**36. Stowing for conservation.**—(1) For the purpose of conservation of coal the Central Government may under sub-section (1) of section 7 issue or cause to be issued an order in writing requiring the owner, agent or manager of any coal mine to undertake stowing in such manner and within such period as may be prescribed in the order.

(2) The Central Government shall require an Inspecting Officer or Inspecting Officers to submit a report in regard to the colliery or collieries where, if stowing for conservation is not adopted, there will be a loss of coal which should be avoided in the public interest by the adoption of stowing.

(3) The Central Government may call for and consider the opinion of an Advisory Committee constituted under section 15 of the Act in regard to the necessity for stowing for conservation in any coal mine or mines.

(4) On consideration of the report of the Advisory Committee the Central Government shall from time to time determine the grade or grades, if any of coal other than coking coal or coal which on beneficiation is likely to yield coking coal or coal suitable for blending which are required to be conserved and the colliery or collieries which should carry out stowing operations to ensure the maximum percentage of extraction of coal.

(5) An order for stowing for conservation shall detail the measures to be undertaken by the owner, agent or manager and the reasons therefor and the dates within which they should be commenced and shall be accompanied by a plan of the area to be stowed.

**37. Washing for conservation.**—(1) Before the issue of an order requiring the owner, agent or manager of a colliery to take steps to beneficiate the coal produced from the colliery, the Central Government shall consider the washability characteristics of the coal, adequacy of transport facilities, the cost of washing, the disposal of middlings and such other matters as will make coal washing economically feasible.

(2) The views of an Advisory Committee constituted under section 15 of the Act may be called for and considered before the issue of an order specified in sub-rule (1).

(3) If the coal washery is to be installed by the owner, agent or manager of the mine specified in the order, the capacity of the washing plant to be installed, the grade or grades of coals that are required to be washed, the specified standard of the washed product and the nature and extent of the assistance that may be given by the Board shall be specified in the order.

(4) In such circumstances as may be considered expedient or appropriate, the owner, agent or manager of a colliery may by order in writing be required to get his coal washed at any central washery.



**38. Other measures for conservation.**—(1) The Central Government may by order in writing, served on the owner, agent or manager of a coal mine specify the maximum quantity of coal of any grade or grades that shall be produced during a specified period in accordance with any policy of coal conservation as may be determined by the Board.

(2) The Central Government may by order in writing, served on the owner, agent or manager of a coal mine require the method of working in any Coal mine or seams to be modified in such manner as it deems necessary for the purpose of ensuring the conservation of coal.

(3) The Central Government may by order in writing served on the owner, agent or manager of a colliery prohibit the carrying out of depillaring operations in the colliery or a seam without stowing or the splitting of pillars as a final mining operation in a colliery or a seam or any other operations connected with mining, which in the opinion of the Central Government may result in undue loss of coal, spread of fire or flooding.

(4) The owner, agent or manager of a coal mine shall give notice in writing to the Board of his intention to depillar in any coal seam or of his intention to split pillars in any seam as a final operation in mining and such notice shall be given at least one full month before the date of commencement of such mining operations provided that no notice need be given where the depillaring is carried out with the aid of stowing.

(5) The Central Government may issue such directions as it deems fit restricting the supply of coking coal of any grade or grades or qualities to specified consumers in accordance with any policy of coal conservation as may be determined by the Board.

(6) The Central Government may by order in writing require the owner of any steel works, blast furnace or coke oven, using coking coal to undertake blending for conservation of coal in accordance with such procedure as may be determined by it from time to time.

**39. Opening and reopening of Coal mines.**—(1) No coal mine or seam shall be opened and no coal mine or seam the working whereof has been discontinued for a period exceeding six months shall be reopened and no operation shall be commenced without the prior permission in writing of the Board and except in accordance with such directions as the Board may give.

(2) When the coal produced in any coal mine or seam has not been graded, the Board shall when granting permission under sub-rule (1) require the owner to apply for a certificate of the grade or grades of coal produced in each seam of the coal mine. The owner shall accordingly submit an application in the manner prescribed by the Board.

(3) The Board shall grant a provisional grade on the basis of the seam sample. When the coal is allowed to be despatched on the basis of the provisional grade the Board shall have power to draw wagon samples in the presence of a representative of the colliery to determine the quality of the coal pertaining to the seam or seams. On the basis of the wagon sample drawn on at least three different days the final grade of the seam or seams of the particular colliery will be fixed by the Board.

(4) No coal shall be despatched from a coal mine without getting certificate of grade under sub-rule (3) indicating the grade or grades of coal to be produced and despatched and no two grades of coal shall be mixed before despatch without the prior permission in writing of the Board.

(5) In the case of any coal mine producing more than one grade of coal, the owner, agent or manager shall make such arrangements as may be required by the Board to ensure that different grades of coal are not mixed before despatch.

**40. Closing of Coal mines producing coking coal.**—Save where a coal mine is abandoned or closed owing to unforeseen or uncontrollable natural causes such as fire or flood, the owner of the coal mine shall give notice in writing of his intention to close the mine, or any seam containing coking coal, to the Chairman, Coal Board, not less than three months before the date on which it is proposed to close the mine or the seam stating briefly the reasons for the intended closure.

(2) Within 15 days of the receipt of the notice referred to in sub-rule (1), the Chairman, Coal Board, may intimate the owner of the colliery of the intention of the Board to examine the case in the interest of conservation of coking coal.

(3) A coal mine or seam in respect of which an intimation under sub-rule (2) is given to the owner, shall not be closed and mining operations shall not be stopped except with the written permission of the Board.

**41. Acquisition of lands and surface rights.**—For the due furtherance of the objects of the Act, the Board may acquire any lands or other surface rights or the right to remove sand from river beds and may dispose of surplus lands or surface rights or the rights to remove sand from river beds in its possession in accordance with rules to be

framed by the Board with the approval of the Central Government or subject to such directions as may be given by the Central Government.

**42. Construction of ropeways and other structures.**—(1) The Board may construct or cause to be constructed ropeways and such other works or structures as may from time to time be required.

(2) Before any owner, agent or manager of a coal mine constructs a ropeway or other works (or structures) for excavating, loading, unloading or conveying of sand or other material for stowing in coal mines and obtains lease of a site to take sand from a river, he shall seek the approval of the Board to the scheme for which the installation or the lease, as the case may be, is considered necessary and such approval shall not ordinarily be withheld unless the scheme is likely to interfere with arrangements for the supply of sand or other stowing material to other coal mines or for other reasons which are to be recorded in writing.

(3) Before any owner, agent or manager of a coal mine installs any stowing plant not referred to in sub-rule (2) or washing plant he shall seek the prior approval of the Board for such an installation.

**43. Appeal to the Central Government.**—If the owner, agent or manager of a coal mine has any objection to any order issued by the Board under rules 35, 36, 37, 38, sub-rule (3) of rule 39, 40, 41, or sub-rules (2) (3) of rule 42 or rule 44 may, within 30 days of receipt of the order appeal against the same to the Central Government which may confirm, modify or cancel the order, as it deems necessary. A copy of such appeal shall be forwarded by such owner, agent or manager to the Coal Board:

Provided that on receipt of notice of appeal from the owner, agent or manager of a coal mine the operation of orders under rules, 35, 36, 37 or 38 shall be suspended, pending the decision of the Central Government save and except in such case where compliance with such order is considered by the Board to be urgent.

**44. Power of the Central Government to recover cost.**—The Central Government or with the approval of the Central Government the Board may recover from the owner, agent or manager of a colliery either wholly or partially the cost of such measures or operations as are undertaken under section 6 if it is satisfied on consideration of all facts and circumstances that such recovery of cost is justified.

**45. Supply of copies of Orders.**—(1) A copy of every order issued by the Board under rules 35, 36, 37, 38 and 39 shall be forwarded to the Chief Inspector and the Coal Commissioner.

(2) A copy of every application received under sub-rule (1) of rule 39 shall be sent to the Chief Inspector and the Coal Commissioner.

(3) A copy of every order issued by the Chief Inspector or an Inspector under sub-section (3) of section 13 shall be forwarded forthwith by such Chief Inspector or Inspector to the Board.

**46. Secrecy of information obtained.**—(1) All copies of, and extracts from registers, plans and other records appertaining to any mine and all other information acquired by a member of any Advisory Committee constituted, under section 15 of the Act or by any person referred to in sub-rule (2) of Rule 34 shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chairman of the Board considers disclosure necessary to ensure safety or the conservation of coal.

(2) Nothing in sub-rule (1) shall apply to disclosure of such information (if so required) to:—

(a) any Court;

(b) a Mining Board, Committee or Court of Enquiry constituted or appointed under section 12, section 13 or section 24 of the Mines Act, 1952, as the case may be.

(3) If any person referred to in sub-rule (1) discloses, contrary to the provisions of this rule any such information as aforesaid without the consent of the Central Government or the Chairman, Coal Board, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) No court shall take cognizance of any offence under the rule except with the previous sanction of the Central Government.

**47. Penalty for contraventions of the rules.**—(1) Any contravention of these rules shall be punishable with imprisonment which may extend to three months or fine or both.

(2) No prosecution shall be instituted against any owner, agent or manager of a coal mine for any offence under these rules except with the sanction of the Board and at the instance of the Chairman of the Board.

**48. Execution of protective measures directly by the Board.**—(1) The Board may prescribe the procedure to be followed for the submission of reports by the Inspecting

Officer of the Board or the Chief Inspector of Mines and the examination of cases where it is necessary or expedient for the Board to undertake any protective measures under section 6.

(2) The Board may, for reasons to be recorded in writing, sanction the payment from the Fund of the full cost of any protective measures undertaken under section (6) provided that:

- (i) subject to the provisions of clause (ii) of this proviso the Board shall not undertake any such protective measures without the previous sanction of the Central Government, if the estimated cost of such measures exceeds rupees one lakh.
- (ii) in the case of protective works of an emergent nature which brook no delay and are estimated to cost more than Rs. 1 lakh but not more than Rs. 5 lakhs the Board may commence the work and simultaneously apply for sanction. The actual expenditure should not in any case exceed Rs. 1 lakh until Government sanction is obtained.

#### CHAPTER VII—PROCEDURE FOR THE GRANT OF ASSISTANCE

**49. Purposes for which assistance may be granted.**—(1) The Board may grant assistance from the Fund to any owner, agent or manager of coal mine—

(a) for stowing or other protective measures which are required to be undertaken by an order issued under sub-section (3) of section 13 or sub-rule (2) of rule 35;

(b) for any measures which in the opinion of the Board are essential for the effective prevention of the spread of fire to or the inundation by water of any coal mine from an area adjacent to it;

(c) for stowing for conservation of coal or washing coal which is required to be undertaken by an order under rule 36 or 37;

(d) for the following measures voluntarily undertaken by the owner, agent or manager of the coal mine:—

- (i) stowing operations in the interests of safety or conservation of coal,
- (ii) any process of washing or cleaning coal which reduces its ash content and also improves its qualities or,
- (iii) any other measures for safety in coal mines or for conservation of coal,

(e) for any other measures undertaken by the owner, agent or manager of a coal mine under the order of the Board to ensure conservation of coal.

(2) The Board may grant assistance to owner of any steel work, blast furnace or coke plant for blending of coal undertaken under the orders of the Board.

**50. Application for assistance.**—(1) The Board may determine the form in which applications for assistance are to be made, the documents and the particulars which are to accompany such applications and the dates by which the applications shall be submitted.

(2) Every owner, agent or manager who requires assistance from the Fund during any financial year shall apply for such assistance in conformity with the procedure determined by the Board under sub-rule (1).

**51. Priority among applications for assistance.**—(1) Priority among applications under rule 49 shall be determined by the Board according to the degree of urgency of the proposed operations from the point of view of safety and of conservation.

(2) (a) Before determining priority among applications for assistance for stowing operations voluntarily undertaken for safety, the Board shall call for and consider the opinion of the Chief Inspector or of an Advisory Committee as may be expedient.

(b) The Board may call for and consider the opinion of any Advisory Committee constituted under section 15 of the Act before determining priority under sub-rule (1).

**52. Form of assistance.**—The Board may grant assistance from the Fund, at its discretion in each case in one or more of the following ways:—

- (i) by the grant of stowing materials;
- (ii) by the loan of stowing plant or such other plant as the Board may decide;
- (iii) by making monetary grants towards the expenses involved in carrying out the measures for which assistance is granted;
- (iv) by the grant of loan for meeting either wholly or in part expenses on the purchase and installation of stowing plant in coal mines blending plant or washing plant or any other plant for the beneficiation of coal.

**53. Quantum of assistance.**—(1) Assistance from the Fund shall be granted by the Board with due regard to the circumstances of each case and the Board may fix from

time to time with the approval of the Central Government the maximum rate or amount of assistance to be granted for any measure or measures for safety or conservation of coal provided that quantum of assistance for stowing for conservation undertaken under clauses (c) and (d) of sub-rule (1) of rule 49 shall not exceed the assistance granted for stowing undertaken voluntarily in the interests of safety in coal mines.

(2) Where assistance is granted in the form of a monetary grant it shall be based on the expenditure involved (including the cost of depreciation of any plant in use) as assessed by the Board for the execution of the measures for which the assistance is granted.

(3) A loan for the purchase and installation of plant shall take the form of direct payment or guarantee of payment, unto the limit of the loan sanctioned of the bills as the Board may consider necessary.

**54. Conditions attaching to the grant of assistance.**—Before granting assistance under these Rules, the Board shall require the owner, agent or manager of the mine to whom assistance is proposed to be granted to execute a bond with or without surety for the fulfilment of such conditions as may be imposed by the Board.

**55. Conditions attaching to the grant of loans.**—(1) The Central Government shall from time to time fix the rates of interest to be charged on loans granted by the Board for the purchase and installation of stowing plant, blending plant, washing plant, or any other beneficiation plant.

(2) Every such loan shall—

(a) bear interest until repayment at the rate fixed under sub-rule (1) and in force at the time of granting the loans, and

(b) shall be repayable within such time as the Board may in each case determine.

(3) The Board shall, before granting any loan, take proper security for its repayment.

**56. Research.**—(1) The Board may grant assistance from the Fund for the prosecution by any agency of such types of research work connected with safety in coal mines or conservation and utilisation of coal as may be authorised by the Central Government.

(2) The Board may also arrange for the prosecution of research work under its own supervision.

#### CHAPTER VIII—ACCOUNTS AND AUDIT

**57. Deposit of money.**—The sum of money received under section 11 and any other moneys received by or on behalf of the Board shall be deposited to the credit of the Coal Mines Safety and Conservation Fund in the manner provided in rule 58.

**58. Keeping of accounts in banks.**—(1) The current account or accounts of the Board shall be kept in such Banks as may be approved by the Central Government and all moneys at the disposal of the Board with the exception of petty cash and of moneys placed in fixed deposit or invested in accordance with the provisions hereinafter contained shall be paid into those accounts.

(2) Any funds not required for current expenditure may be placed in fixed deposit with any Bank approved in this behalf by the Central Government or invested in the name of the Board in any security in which trust property may lawfully be invested under the Indian Trusts Act, 1882 (II of 1882).

(3) The placing of money in fixed deposit and the investment thereof and disposal of moneys so placed or invested shall be subject to the sanction of the Board.

(4) Payments by or on behalf of the Board shall be made in cash or by cheques drawn against a current account of the Board.

(5) The cheque referred to in sub-rule (4) and all orders for the making of deposits or investments or for the withdrawal of such deposits or the realisation of such investments or for the disposal in any other manner of the funds of the Board shall be signed by the Secretary to the Board or an officer duly authorised in this behalf by the Board and countersigned by the Chairman or by a member authorised by the Board in this behalf.

**59. Budget.**—(1) The Board shall in each year prepare a budget for the ensuing financial year and shall submit it for the sanction of the Central Government on or before the 1st November.

(2) The Budget shall include statements of—

(i) the estimated opening balance;

(ii) the estimated receipts under section 11 and from other sources; and

(iii) the proposed expenditure classified under the heads specified in sub-rule (3) of rule 61 and such other heads as may be settled at a meeting of the Board.

**60. Keeping auditing and publication of accounts.**—(1) The Board shall keep accounts of all moneys received in and expended out of the Fund during each financial year.

(2) Such accounts shall be examined and audited as prescribed in sub-section (2) of Section 12 of the Act.

(3) The Comptroller and Auditor General may disallow any item which has in his opinion been expended out of the Fund otherwise than as directed by or under the Act or these rules.

(4) If an item of expenditure is disallowed by the Comptroller and Auditor General the Central Government may—

(a) either remit the disallowance made by the Auditors; or

(b) sanction the expenditure; or

(c) direct that the amount be recovered from the person or persons responsible for the expenditure and credited to the fund, provided that no recovery under the sub-clause shall be permissible if the expenditure has been incurred in good faith; or

(d) direct that the item disallowed shall be dealt with in such other way as the Central Government may think fit.

(5) The audited statement of receipts and expenditure together with the annual report referred to in clause (3) of sub-rule (2) of rule 13 shall be submitted to the Central Government not later than the 31st day of July in each year.

(6) An abstract statement of the accounts together with the Auditor's report thereon shall be published annually in the official Gazette.

**61. Receipts and Expenditure.**—(1) The accounts of receipts shall be shown under the following heads:—

(a) a sum received under section 11;

(b) any other moneys received;

(c) any interest that may have accrued from the investment of such sum or moneys as aforesaid.

2. Total receipts only shall be shown under each of the heads specified in sub-rule (1) and the opening balance, if any, shall also be stated.

(3) Accounts of expenditure shall be shown under the following heads:—

(a) administration of the Board;

(b) other expenditure connected with the administration of the Act;

(c) grant of stowing materials or other assistance for stowing operations to owners, agents or managers of coal mines;

(d) other measures taken in connection with furtherance of the objects of the Act;

(e) miscellaneous.

(4) The closing balance of the year shall be shown at the foot of the accounts on the expenditure side.

(5) In addition to the particulars required by sub-rule (3) separate statements under heads (c) and (d) referred to in that sub-rule shall be drawn up, which shall show the sums paid to each owner, agent or manager of a coal mine independently or spent otherwise

## COAL GRADING BOARD ACT, 1925 (XXXI OF 1925)

### Statement of Objects and Reasons<sup>1</sup>

The object of this Bill is to carry out the most important recommendations of the Indian Coal Committee in Chapter IX of its Report. Since the war, the market for Indian coal both in India and in foreign ports has been greatly decreased, and the first finding of the Committee is that the problem of the recovery of these markets can be summed up in the two words "quality" and "price". As regards quality, the Committee summarised its recommendations as below:—

"It would be very difficult for individual exports of coal to re-establish themselves in overseas markets owing to the bad repute into which Indian coal has fallen and a Grading Board should, therefore, be immediately established which would grade collieries which produce coal for export and would arrange the issue of a Certificate for each consignment of coal exported (Paragraphs 101 and 102 of the Report).

<sup>1</sup> Gazette of India 1925, Part V, pages 184-85.

Any system of grading and certificates should be such as to command the confidence of buyers overseas and not to relieve the exporter of any responsibility as to quality. (Paragraph 103).

It would take too long and it would be too expensive to establish immediately a new organisation for the grading of Indian coal. (Paragraph 104).

The Organisation of the Chief Mining Engineer to the Railway Board should be utilised for the purpose of grading coal. (Paragraph 104).

The most suitable constitution for the Grading Board would be the Chief Mining Engineer as Chairman, a representative of the Indian Mining Association, a representative of the Indian Mining Federation, a nominee of the Bengal Chamber of Commerce and a nominee of the Bengal National Chamber of Commerce. The last two members would represent the consumers interest on the Board. (Paragraph 104).

The general outline is given of a scheme for classifying all Indian coals and it is suggested that a grading list should be published by the Grading Board as soon as possible, classifying the different collieries on this system and giving the analysis of their coal. (Paragraph 105).

The names of collieries should not be included in the grading list without their consent. (Paragraph 105).

The decision of the Grading Board as to the classification of any Colliery or seam in the grading list should be final. (Paragraph 105).

Any coal should be eligible for inclusion in the grading list. (Paragraph 105)."

2. The question of price is largely one for the collieries themselves, but the Committee has recommended that certain concessions should be given by the Railways concerned and by the Port Commissioners of Calcutta. These concessions take the form of an additional rebate of railway freight and a reduction of river duties on coal certified for export.

3. These recommendations have been agreed to by the Government of India, the Railway Administrations concerned and the Port Commissioners of Calcutta. The Committee suggested that they should be given effect to in the manner suggested at the end of paragraph 105 of its Report. But the Government of India have been unable to accept this proposal and have decided that the recommendations can be properly given effect to only by means of legislation. Hence they have embodied the recommendations of the Committee in this Bill.

## COAL GRADING BOARD ACT, 1925 (XXXI OF 1925)

### Arrangement of Sections

1. Short title and extent.
2. Definitions.
3. Constitution of Coal Grading Board.
4. Power to grade collieries, to revise grading and to grant certificates.
5. Maintenance and publication of grade list.
6. Grant of export certificate.
7. Powers of inspection.
8. Grant of rebate and preferences.
9. Application of fees.
10. Validity of acts of Board.
11. Protection of acts done under the Act.
12. Power of Central Government to make rules.

# COAL GRADING BOARD ACT, 1925 (XXXI OF 1925)<sup>1</sup>

[23rd September, 1925]

*An Act to provide for the grading of coal and for the grant of certificates for coal intended for export.*

Whereas it is expedient to provide for the grading of coal and for the grant of certificates for coal intended for export; it is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Coal Grading Board Act, 1925.

(2) It extends to <sup>2</sup>[the whole of India except Part B States].

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Board” means the Coal Grading Board constituted under section 3;

(b) “export” means the shipment of coal as cargo from a port in <sup>3</sup>[a Part A State or Part C State]

(c) “graded colliery” means a colliery the grade of all or any of the seams or of a part of any seam of which has been determined under the provisions of section 4 and is entered in the grade list maintained in accordance with the provisions of section 5;

(d) “prescribed” means prescribed by rules made under this Act; and

(e) “secretary” means the secretary of the Board appointed under sub-section (4) of section 3.

**3. Constitution of Coal Grading Board.**—(1) As soon as may be after the commencement of this Act, the <sup>4</sup>[Central Government] shall cause to be constituted <sup>5</sup>a Board consisting of the following members, namely:—

(a) The Chief Mining Engineer to the Railway Board <sup>6</sup>\*\*\* and

(b) four persons nominated respectively by the Indian Mining Association, the Indian Mining Federation, the Bengal Chamber of Commerce and the Bengal National Chamber of Commerce;

Provided that, if within the period prescribed in this behalf any such body fails to make any nomination which it is entitled to make under this sub-section, the <sup>4</sup>[Central Government] and <sup>7</sup>[itself] appoint a member or members, as the case may be, to fill the vacancy or vacancies.

(2) The Board so constituted shall be a body incorporated by the name of the Coal Grading Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract and shall by the said name sue and be sued.

(3) The Chief Mining Engineer to the Railway Board<sup>8</sup> \* \* \* shall be ex-officio President of the Board.

(4) The Secretary of the Board shall be a person, not being a member of the Board appointed by the Board.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1925, Pt. V, p. 184; see also page 416 ante and for Report of Select Committee, see *ibid*, p. 210.

<sup>2</sup> Subs. by the A. O. 1950 for “all the Provinces of India”.

<sup>3</sup> Subs. for “a Province of India” by Act III of 1951.

<sup>4</sup> Subs. by the A. O. 1937, for “G. G. in C”.

<sup>5</sup> For Constitution of the Board, see Notification No. 47 T. (57), dated 20th January, 1926, *Gazette of India*, 1926, Pt. I, p. 148.

<sup>6</sup> Repealed by A. O. 1948.

<sup>7</sup> Subs. by the A. O. 1937, for “himself”.

<sup>8</sup> The words “or, after the establishment of the Federal Railway Authority, to that Authority” which had been ins. by the A. O. 1937 were rep. by the A. O. 1948.

**4. Power to grade collieries, to revise grading and to grant certificates.—**

(1) On the application of any colliery and on payment of the prescribed fee, the Board shall, in such manner as may be prescribed, determine the grade of coal of all or any of the seams or of a part of a seam of such colliery, and shall by notice in writing inform the colliery of the grade so determined.

(2) The colliery may, within thirty days from the receipt of the said notice, lodge with the Board an objection to the order passed under sub-section (1) determining the grade of any coal, and the Board shall, on payment of the prescribed fee and after further inspection and analysis, decide such objection; the decision of the Board shall be final and shall not be questioned in any Court.

(3) Where the grade of any coal has been determined under the provisions of this section, the Board shall, on the request of the colliery, furnish a certificate in the prescribed form, specifying the grade of such coal.

**5. Maintenance and publication of grade list.—**(1) The Board shall maintain a grade list, in such form and containing such particulars as may be prescribed, of coal the grade of which has been determined in accordance with the provisions of section 4, but shall not enter in such list any coal in respect of which the colliery has, after the determination or decision of the Board under sub-section (2) of section 4, given notice in writing that such coal should not be entered in the grade list.

(2) The grade list shall be published in such manner as may be prescribed.

**6. Grant of export certificate.—**(1) On the application of any graded colliery desiring to export coal and on payment of the prescribed fee, the Board shall, if it is satisfied after such inspection as it may deem necessary with the quality and condition of the coal, grant a certificate of shipment in the prescribed form.

(2) Such fee shall not exceed one anna per ton of coal.

**7. Powers of inspection.—**Any member of the Board and any person authorised in this behalf by the Board may, for the purposes of this Act, enter at any time in and upon any colliery, storage bin, truck, vehicle, vessel or other place where there is coal and inspect, test and take sample of such coal.

**8. Grant of rebate and preferences.—**Notwithstanding anything to the contrary in any law for the time being in force, a rebate of any charges, including freight, fees, tolls, dues or rates, may be granted in respect of coal of which a certificate of shipment has been granted under the provisions of section 6, and, subject to such restrictions as may be prescribed, preference may be given in the supply of wagons for forwarding coal for export from a graded colliery.

**9. Application of fees.—**Subject to such conditions as may be prescribed the proceeds of fees received by the Board shall be applied to meeting the expenses of the Board.

**10. Validity of acts of Board.—**No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

**11. Protection for acts done under Act.—**No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

**12. Power of the <sup>9</sup>[Central Government] to make rules.—**(1) The <sup>9</sup>[Central Government] may after previous publication, by notification in the <sup>10</sup>[Official Gazette], make rules for the purpose of carrying into effect all or any of the purposes of this Act.

<sup>9</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>10</sup> Subs. by the A. O. 1937, for "Gazette of India"



(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) for prescribing the time within which nominations shall be made under section 3, whether in the first instance or on the occurrence of vacancies;
- (b) for prescribing the term of office of members of the Board;
- (c) for prescribing the circumstances in which and the authority by which any member may be removed from the Board;
- (d) for regulating the appointment of officers of, and the keeping and publication of accounts by, the Board;
- (e) for prescribing the procedure on application under section 4 and the principles for grading coal;
- (f) for prescribing the form of and particulars to be entered in and manner of publication of the grade list;
- (g) for prescribing the procedure of the Board in deciding any objection lodged against any order passed under section 4 determining the grade of any coal;
- (h) for prescribing the form of certificate to be granted under section 6 and the procedure on application under that section;
- (i) for prescribing the restrictions subject to which preference may be given under section 8;
- (j) for prescribing the fees for any inspection or analysis required for the purposes of this Act or payable under any of the provisions of this Act; and
- (k) for prescribing the remuneration of members and regulating the expenditure of the Board.

## MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT, 1948 (LIII OF 1948)

### Statement of Objects and Reasons<sup>1</sup>

The question of Central regulation of mines and oilfields and mineral development has been engaging the attention of Government for some time. The need for Central regulation was amply illustrated in the last war when certain key minerals had to be controlled under the Defence of India Act. It is now well recognised that a planned and uniform policy of mineral development is essential to economic and industrial progress. The Industrial Policy Resolution of the 6th April, 1948 included minerals amongst the industries whose location must be governed by economic factors of all-India import or which require considerable investment or a high degree of technical skill and must consequently be the subject of Central regulation and control.

2. This Bill has accordingly been drafted under item 36 of the Federal Legislative List of the Seventh Schedule to the Government of India Act, 1935, to regulate mines and oilfields and mineral development on the lines contemplated in the Industrial Policy Resolution of the 6th April 1948. It seeks to give powers to the Central Government to frame rules for the regulation of the terms and conditions of mining leases, as also for the conservation and development of minerals. It also provides for modifications of existing leases on payment of compensation. Clause 8 provides for delegation of powers to Provincial Governments or any officers or authority as may be specified in this behalf, e.g., a Coal Commission. Clause 11 confers powers of entry and inspection on any officer authorised by the Central Government in this behalf. Finally, there is a clause prescribing penalties for contravention of any of the provisions of the Act or the rules made thereunder. The rules made under the Act will be laid before the Legislature as soon as may be after they are made, while rules relating to compensation to be paid for modification of existing leases will not be operative unless and until they are approved by the Legislature.

<sup>1</sup> Gazette of India, 1948, Part V, p. 601.

**MINES AND MINERALS (REGULATION AND DEVELOPMENT)  
ACT, 1948 (LIII OF 1948)**

**Arrangement of Sections**

1. Short title, extent and commencement.
2. Declaration as to expediency of control by Central Government.
3. Definitions.
4. No mining lease to be valid unless it is in accordance with this Act
5. Power to make rules as respects mining lease.
6. Power to make rules as respects mineral development.
7. Power to make rules for modification of existing leases.
8. Delegation.
9. Penalties.
10. Rules to be laid before the Legislature.
11. Power of inspection.
12. Relaxation of rules in special cases.
13. Act to be binding on the Government.
14. Protection of action taken in good faith.

**MINES AND MINERALS (REGULATION AND DEVELOPMENT)  
ACT, 1948 (LIII OF 1948)<sup>1</sup>**

[8th September, 1948]

*An Act to provide for the regulation of mines and oilfields and for the  
development of minerals.*

Whereas it is expedient in the public interest to provide for the regulation of mines and oilfields and for the development of the minerals to the extent hereinafter specified;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Mines and Minerals (Regulation and Development) Act, 1948.

<sup>2</sup>[(2) It extends to the whole of India <sup>3</sup>[except the State of Jammu and Kashmir.]]

(3) It shall come into force on such date<sup>4</sup> as the Central Government may, by notification in the official Gazette, appoint in this behalf.

**2. Declaration as to expediency of control by Central Government.**—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of mines and oilfields and the development of minerals to the extent hereinafter provided.

**3. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) the expression “lessor” and “lessee” respectively include a licensor and licensee;

(b) “mine” means any excavation for the purpose of searching for or obtaining minerals and includes an oil-well;

(c) “minerals” include natural gas and petroleum;

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1948, Pt. V, p. 601, see also p. 420, *ante* and for the Report of Select Committee, see *ibid.*, p. 641-642.

<sup>2</sup> Substituted by the Adaptation of Laws Order, 1950 for the former sub-section (2).

<sup>3</sup> Substituted by the Part B States (Laws) Act, 1951 (3 of 1951) for “except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin”.

<sup>4</sup> 25th October, 1948, *vide* Notification No. M.II-155(24)-1, dated the 18th October, 1949, see Gazette of India, Extraordinary, 1949, p. 2075.

(d) "mining lease" means a lease granted for the purpose of searching for, winning, working, getting, making merchantable, carrying away or disposing of minerals or for purposes connected therewith, and includes an exploring or a prospecting license;

(e) "oilfield" means any area where any operation for the purpose of obtaining natural gas and petroleum, crude oil, refined oil, partially refined oil and any of the products of petroleum in a liquid or solid state, is to be or is being carried on.

**4. No mining lease to be valid unless it is in accordance with this Act.—**

(1) No mining lease shall be granted after the commencement of this Act otherwise than in accordance with the rules made under this Act.

(2) Any mining lease granted contrary to the provisions of sub-section (1) shall be void and of no effect.

**5. Power to make rules<sup>6</sup> as respects mining leases.—**(1) The Central Government may, by notification in the official Gazette, make rules for regulating the grant of mining leases or for prohibiting the grant of such leases in respect of any mineral or in any area.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which, the minerals or areas in respect of which and the persons by whom, applications for mining leases may be made and the fees to be paid on any such applications;

(b) the authority by which, the terms on which, and the conditions subject to which, mining leases may be granted;

(c) the maximum or minimum area and the period for which any mining lease may be granted, and the terms on which leases in respect of contiguous areas may be amalgamated;

(d) the fixing of the maximum and minimum rent payable by a lessee, whether the mine is worked or not.

**6. Power to make rules<sup>7</sup> as respects mineral development.—**(1) The Central Government may, by notification in the official Gazette, make rules for the conservation and development of minerals.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the regulation or prohibition of the mining, quarrying or digging for or the excavating or collecting of minerals from any mine or in any area;

(b) the manner in which and the persons by whom any mineral or any area as respects which the grant of mining leases is prohibited may be developed or worked;

(c) the development of any mineral resources in any area by prescribing or regulating the use of any engines, machinery or other equipment;

(d) the regulation of the drilling, redrilling, deepening, shutting down, plugging and abandoning of oilwells in an oilfield and for the limitation or prohibition of such operations and for the taking of remedial measures to prevent waste of or damage to oil;

<sup>6</sup> See the Mineral Concession Rules, 1949 published under the Ministry of Natural Resources and Scientific Research Notification No. M-11-155(24)-2 dated the 18th Oct., 1949.

<sup>7</sup> See the Mineral Conservation and Development Rules, 1955 published under the Ministry of Natural Resources and Scientific Research Notification No. S.R.O. 608 dated the 15th March, 1955.

- (e) the regulation of the methods of producing oil in any oilfield, and the limitation or prohibition of such methods;
- (f) the compulsory notification of all new borings and shaft sinkings, and the preservation of boring records and specimens of cores of all new bore-holes;
- (g) the taking of samples from mines and new bore-holes;
- (h) the regulation of the arrangements for the storage of minerals and the stocks thereof that may be kept by any person;
- (i) the levy and collection of royalties, fees or taxes in respect of minerals mined, quarried, excavated or collected;
- (j) the submission by the owners or lessees of mines of special or periodical returns and reports, and the forms in which and the authorities to whom such returns and reports shall be submitted.

**7. Power to make rules for modification of existing leases.**—(1) The Central Government may, by notification in the official Gazette, make rules for the purpose of modifying or altering the terms and conditions of any mining lease granted prior to the commencement of this Act so as to bring such lease into conformity with the rules made under sections 5 and 6:

Provided that any rules so made which provide for the matters mentioned in clause (c) of sub-section (2) shall not come into force until they have been approved, either with or without modifications, by \*[the House of the People].

(2) The rules made under sub-section (1) shall provide—

- (a) for giving previous notice of the modification or alteration proposed to be made thereunder to the lessee, and where the lessor is not the Central Government, also to the lessor, and for affording them an opportunity of showing cause against the proposal;
- (b) for the payment of compensation by the party who would be benefited by the proposed modification or alteration to the party whose rights under the existing lease would thereby be adversely affected; and
- (c) for the principles on which, the manner in which and the authority by which the said compensation shall be determined.

**8. Delegation.**—The Central Government may, by notification in the official Gazette, direct that any power exercisable under this Act shall be exercised, subject to such conditions, if any, as may be specified therein by such officer or authority as may be specified in the direction.

**9. Penalties.**—(1) Any rule made under any of the provisions of this Act may provide that any contravention thereof shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever, after having been convicted of any offence referred to in sub-section (1), continues to commit such offence shall be punishable for each day after the date of the first conviction during which he continues so to offend, with fine which may extend to one hundred rupees.

**10. Rules to be laid before the Legislature.**—All rules made under any of the provisions of this Act shall be laid before \*[the House of the People] as soon as may be after they are made.

**11. Power of inspection.**—(1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any

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\* Substituted by the Adaptation of Laws Order, 1950 for "The Central Legislature."

other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to—

(a) enter and inspect any mine;

(b) order the production of any document, book, register or record in the possession or power of any person having the control of or connected with, any mine;

(c) examine any person having the control of, or connected with, any mine.

(2) Any officer authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

**12. Relaxation of rules in special cases.**—The Central Government may, if satisfied that it is in the public interest so to do, authorise in any case the granting of any mining lease or the working of any mine on terms and conditions different from those laid down in the rules made under sections 5 and 6.

\*[13. **Act to be binding on the Government.**—The provision of this Act shall be binding on the Government.]

**14. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

## MINERAL CONCESSION RULES, 1949

### Arrangement of Paragraphs

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3. Definitions.
4. Exemption.

#### CHAPTER II—CERTIFICATE OF APPROVAL

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\* Substituted for former section 13 by the Adaptation of Laws Order, 1950.

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(2) Model Forms of applications for the grant of mineral concessions (including certificate of approval) under the Mineral Concession Rules, 1949.

(3) Model Form of application for review under Rule 57 of the Mineral Concession Rules, 1949.

## MINERAL CONCESSION RULES, 1949<sup>1</sup>

In exercise of the powers conferred by section 5 of the Mines and Minerals (Regulation and Development) Act, 1948, the Central Government is pleased to make the following rules for regulating the grant of prospecting licenses and mining leases for minerals other than petroleum and natural gas, namely:—

### MINERAL CONCESSION RULES, 1949

#### CHAPTER I—GENERAL

1. **Short title and commencement.**—(i) These rules may be called the Mineral Concession Rules, 1949.

<sup>2</sup>[(i-A) These rules extend to the whole of India except the State of Jammu and Kashmir].

(ii) These rules shall come into force on the twenty-fifth day of October, 1949.

2. **Saving of Act XXIX of 1948.**—Nothing in these rules shall affect the provisions of the Atomic Energy Act, 1948.

<sup>3</sup>3. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context—

(i) "mining lease" means a lease to mine, quarry, bore, dig and search for, win, work and carry away any mineral specified therein;

(ii) "minor mineral" means building stone, boulder, shingle, gravel, <sup>3a</sup>[Chalcedony pebbles], <sup>4</sup>[<sup>5</sup>limeshell], kankar, and limestone used for lime burning], murrum, brick-earth, <sup>6</sup>[Fuller's earth], <sup>7</sup>[Bentonite], ordinary clay, ordinary sand, <sup>8</sup>[road metal, reh-matti, slate and shale when used for building material].

(iii) "private person" means a person other than Government;

(iv) "prospecting license" means a license to search for any mineral specified therein, by quarrying, boring and digging or otherwise;

(v) "railway" and "Railway Administration" have the meanings respectively assigned to them in the Indian Railways Act, 1890.

4. **Exemption.**—These rules shall not apply to minor minerals, the extraction of which shall be regulated by such rules as the <sup>9</sup>[State] Government may prescribe.

#### CHAPTER II—CERTIFICATE OF APPROVAL

5. **Grant of certificate of approval.**—A certificate of approval shall be granted only by a State Government

6. **Persons to whom certificate may be granted.**—A certificate of approval may be granted to any person who, in the opinion of the State Government, is in a position to employ an efficient prospecting agency, or possesses special knowledge of geology or mining;

<sup>10</sup>[Provided that—

(a) where such person is an individual and is not a citizen of India, or

(b) where the person is a partnership firm which consists of one or more partners who are not citizens of India,

the State Government shall not grant any certificate of approval to such persons except with the previous approval of the Central Government.

Provided further that where such person is a company, it shall be incorporated under the Indian Companies Act, 1913 (VII of 1913)<sup>10a</sup>, and if a partnership firm, it shall be registered under the Indian Partnership Act, 1932 (IX of 1932).

<sup>1</sup> These Rules were published under the Ministry of Natural Resources and Scientific Research Notification No. M-II-155(24)-2 dated the 18th October, 1949.

<sup>2</sup> Inserted by Notification No. M-II-155 (92), dated 29th October, 1951.

<sup>3</sup> Clauses (i) and (vi) of rule 3 were omitted by Notification No. M-II-155 (92), dated 29th October, 1951.

<sup>3a</sup> Inserted by Notification No. S.R.O. 244 dated the 25th January, 1956.

<sup>4</sup> As amended by Corrigendum No. M-II-152(2)/54, dated 18th May, 1954.

<sup>5</sup> Inserted by Notification No. M-II-159 (6), dated 31st July, 1951.

<sup>6</sup> Added by Notification No. M-II-152 (271)/53, dated 9th March, 1954.

<sup>7</sup> Added by Notification No. M-II-152(38)/54, dated 4th August, 1954.

<sup>8</sup> Inserted by Notification No. M-II-152(202), dated 22nd October, 1953.

<sup>9</sup> Words "Province" or "Provincial" substituted wherever they occurred by Notification No. M-II-155 (92), dated 29th October, 1951.

<sup>10</sup> Substituted by Notification No. S.R.O. 3517 dated the 24th November, 1954.

<sup>10a</sup> See now the Companies Act, 1956 (I of 1956).

Provided further that when it is so expedient in the public interest, the State Government may by order, with the previous approval of the Central Government, grant exemption from this rule].

7. <sup>11</sup>[(1)]. **Application for certificate of approval.**—An application for the grant or renewal of a certificate of approval shall be submitted to the State Government <sup>12</sup>[through such officer or authority as it may appoint in this behalf], and <sup>12</sup>[every application for the grant of a certificate] shall contain the following particulars:—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence, and

<sup>11</sup>[(ii) If the applicant is a partnership firm, a company or an association or body of individuals, whether incorporated or not, its name, nature and place of business, place of registration or incorporation and except in the case of a company which is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913), the names and addresses of the individuals constituting such partnership firm, company, association or body.]

<sup>13</sup>[(b) A statement showing the technical qualifications and mining experience of the applicant, and his manager, if any, and such other particulars as may be necessary to satisfy the State Government of the competence of the applicant to hold the certificate.]

<sup>11</sup>[(2) If there is any omission or misdescription of the <sup>14</sup>[profession or residence or nationality] in the case of an individual or of the place of business in the case of a partnership firm, a company or an association or body of individuals, whether incorporated or not, such omission or misdescription shall be corrected within a period specified by the State Government or an officer appointed by that Government in this behalf.]

8. **Restricted certificate.**—A certificate of approval shall be valid for the whole of the State and shall cover all minerals except petroleum and natural gas, unless the State Government, with the prior approval of the Central Government, restricts it to any specified mineral or minerals.

9. **Period of certificate of approval.**—(1) A certificate of approval shall have effect from the date on which it is granted and shall expire at midnight on the 31st December next following:

Provided that a certificate issued in the last quarter of the year shall be valid until the 31st December of the year next following.

(2) Only one person shall be named in the certificate and the fee payable for the grant thereof shall be Rs. 100.

10. **Renewal of certificate of approval.**—A certificate of approval may be renewed on payment of a fee of Rs. 50 if the application for renewal is received within 3 months from the date of expiry of the certificate. <sup>15</sup>[No application for renewal received after the expiry of three months shall be entertained] but an application for a fresh certificate may be made.

11. **Notification of grant of certificate of approval.**—The name and address of the person to whom a certificate of approval has been granted or renewed shall be published by the State Government in the official Gazette.

12. **Holder of a concession need not renew his certificate.**—The expiry of a certificate of approval shall not affect the validity of a license or lease already granted to the holder of such certificate, or the right of the holder of a prospecting license to apply for or obtain a mining lease under these rules.

### CHAPTER III—GRANT OF PROSPECTING LICENSE IN RESPECT OF LAND IN WHICH THE MINERALS BELONG TO GOVERNMENT

13. **Restrictions on grant of prospecting licenses.**—(1) No prospecting license shall be granted to any person unless he holds a certificate of approval from the State Government concerned.<sup>16</sup> \* \* \* \* <sup>17</sup>[No prospecting license shall be granted to any person unless he

<sup>11</sup> Renumbered and substituted by Notification No. M.II-152(268)/53, dated 11th May, 1954.

<sup>12</sup> Inserted by Notification No. M.II-155(56), dated 9th December, 1949.

<sup>13</sup> Inserted by Notification No. M.II-152(235)/53, dated the 11th December, 1954.

<sup>14</sup> Substituted by Notification No. S.R.O. 1401 dated the 22nd/23rd June, 1955.

<sup>15</sup> Substituted by Notification No. M.II-152(152), dated the 10th July, 1953.

<sup>16</sup> The words "and if he is an individual other than a citizen of India unless the prior approval of the Central Government has been obtained" deleted by the Notification No. S.R.O. 369, dated the 4th February, 1955.

<sup>17</sup> Inserted by Notification No. M.II-152(73), dated 29th February, 1952.



produces before the State Government an income tax clearance certificate from the Income-tax Officer of the District where he resides and carries on business].

(2) No prospecting license shall be granted in respect of any such mineral or class of minerals as the Central Government may, by order communicated to the State Government concerned, specify, either throughout, or in such part of the State as may be specified in the order.

(3) No prospecting license for any mineral specified in Schedule IV shall be granted except with the approval of the Central Government.

<sup>18</sup>[(1-A) (a) Where such person is a company, it shall be incorporated under the Indian Companies Act, 1913 (VII of 1913); and where such person is a partnership firm, it shall be registered under the Indian Partnership Act, 1932 (IX of 1932).

(b) Where such person is an individual and is not a citizen of India or where such person is a partnership firm which consists of one or more partners who are not citizens of India, the State Government shall not grant any prospecting licence to such person without the previous approval of the Central Government.]

**14. Application for prospecting license.**—An application for a prospecting license shall, in case of land in which the minerals belong to Government, be made to the State Government concerned <sup>19</sup>[through such officer or authority as it may appoint in this behalf] and shall contain the following particulars—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence, and

<sup>20</sup>[(ii) If the applicant is a partnership firm, a company or an association or body of individuals, whether incorporated or not, its name, nature and place of business, place of registration or incorporation, and except in the case of a company which is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913), the names and addresses of the individuals constituting such partnership firm, company, association or body.]

(b) The number and date of the notification of the grant or renewal of the certificate of approval of the applicant;

(c) A description, illustrated by a map or plan showing as accurately as possible the situation, boundaries and area of the land in respect of which the license is required;

(d) The period for which the prospecting license is required; and

(e) The mineral or minerals for which the applicant intends to prospect

<sup>21</sup>[A copy of all the returns shall also be sent simultaneously to the State Government concerned.]

<sup>22</sup>[*Explanation* —The map or plan referred to in item (c) should give sufficient information for the purpose of identification of the area of the land in respect of which the license is required.]

**15. Application fee.**—The application shall be accompanied by a fee of Rs. 50 for the first square mile and Rs. 10 for each additional square mile or part thereof

**16. Acknowledgment of application.**—On receipt of the application the receiving officer shall note thereon the date and time of its receipt and shall give to the applicant an acknowledgment stating the date and time of receipt.

**17. State Government may grant or refuse a license.**—(1) Subject to the provisions of Rule 13, the State Government may grant or refuse the license

(2) In case of refusal, intimation of the same shall be given to the applicant in writing and the fee paid under rule 15 shall be refunded.

<sup>23</sup>[(3) In the event of death of an applicant before grant of a prospecting license, the fee paid under rule 15 shall be refunded to his legal representative.]

<sup>24</sup>[17A. License to be executed within three months.—Where a license has been granted under rule 17, the formal license shall be executed within three months of the date of the

<sup>18</sup> Inserted by Notification No. S.R.O. 369 dated 4th February, 1955.

<sup>19</sup> Inserted by Notification No. M.II-152(56), dated 9th December, 1949.

<sup>20</sup> Substituted by Notification No. M.II-152(268)/53, dated 11th May, 1954.

<sup>21</sup> Added by Notification No. S.R.O. 1492 dated 4th August, 1955.

<sup>22</sup> Added by Notification No. M.II-152(103), dated 29th July, 1953.

<sup>23</sup> Inserted by Notification No. M.II-152(239), dated 28th December, 1953.

<sup>24</sup> Inserted by Notification No. M.II-159(20), dated 27th February, 1953.

order granting the license and if no such formal license is executed within the aforesaid period the order granting the license shall be deemed to have been revoked;

Provided that where <sup>25</sup>[the State Government or any officer or authority of the State Government authorised by it in this behalf] is satisfied that the applicant for the license is not responsible for the delay in the execution of the formal license, <sup>26</sup>[that Government or as the case may be, that officer or authority] may permit the execution of the formal license after the expiry of the aforesaid period of three months.]

**18. Priority.**—(1) If more than one application regarding the same land is received, preference shall be given to the application received first, unless the State Government, for any special reason, and with the prior approval of the Central Government decides to the contrary.

<sup>26</sup>[Provided that where more than one application in respect of the same land is received on the same day the State Government, after taking into consideration the matters specified in sub-rule (2) and after obtaining the prior approval of the Central Government may grant the prospecting license to such one of the applicants whom it considers to be the most suitable.]

<sup>27</sup>[Provided further that no application shall be deemed to be incomplete for the purposes of this rule, on account of the omission or misdescription of the <sup>28</sup>[profession or residence or nationality] in the case of an individual or of the place of business in the case of a partnership firm, a company, or an association or body of individuals, whether incorporated or not, if such omission or misdescription is corrected within a period specified by the State Government or an officer appointed by that Government in this behalf.]

<sup>29</sup>[(2) The matters referred to in the proviso to sub-rule (1) shall be the following namely:—

- (i) experience of the applicants in prospecting;
- (ii) financial soundness and stability of the applicants;
- (iii) special knowledge of geology or mining and the technical staff already employed or to be employed for the work ]

**19. Security deposit.**—The applicant shall, before the license is issued to him, deposit as security a sum of Rs. 100 for each square mile or part thereof covered by the license, for due observance of the terms and conditions of the license.

**20. Register of prospecting licenses.**—A register of prospecting licenses shall be maintained by the State Government, specifying:—

- (1) Serial Number;
- (2) Name of the applicant;
- (3) Residence of the applicant;
- (4) Date and number of certificate of approval granted to the applicant;
- (5) Date of application;
- (6) Situation and boundaries of the land;
- (7) Estimated total area;
- (8) The mineral or minerals which the applicant desires to prospect for,
- (9) Date of grant of the license;
- (10) Period for which granted, renewed or extended;
- (11) Application fee paid;
- (12) Prospecting fee and royalty if payable,
- (13) Amount of security deposit;
- (14) Particulars of disposal or refund of security deposit;
- (15) Date of assignment or transfer of the license, if any, and fees paid therefor and the names of the parties thereto;
- (16) Date of application for mining lease (if any);
- <sup>30</sup>[(17) Date of expiry or relinquishment or cancellation;
- (18) Date from which the area is available for regrant.]

**21. Inspection of register.**—The register shall be open to inspection by any holder of a valid certificate of approval or his duly authorised agent on payment of such fee as the State Government may fix <sup>31</sup>[in consultation with the State Governments concerned.]

<sup>25</sup> Substituted by Notification No. M.II-152(15)/54, dated 24th April, 1954.

<sup>26</sup> Added by Notification No. M.II-152(103), dated 29th July, 1953.

<sup>27</sup> Inserted by Notification No. M.II-152(268), dated 11th May, 1954.

<sup>28</sup> Substituted by Notification No. S.R.O. 1401 dated 22nd/23rd June, 1955.

<sup>29</sup> Inserted by Notification No. M.II-152(103), dated 29th July, 1953.

<sup>30</sup> Added, *ibid.*

<sup>31</sup> Added by Notification No. S.R.O. 1743 dated 4th August, 1955.

<sup>32</sup>[*Explanation*:—The expression 'holder of a valid certificate of approval' includes a person whose certificate has expired but who is eligible to apply for its renewal.]

**22. Period of grant or renewal of a prospecting license.**—(1) Except for mica, the period for which a prospecting license may be granted shall not exceed two years. If at the end of this period the State Government is satisfied that a longer period is required to enable the licensee to complete the prospecting, it may renew the license for one or more further periods not exceeding one year each, but subject to a total period of four years from the date of commencement of the original license. In the case of mica, the term for which a prospecting license may be granted shall not exceed one year, but the State Government may renew it for a further period not exceeding one year.

(2) If the licensee, before the termination of the period of his license, applies for the grant of a mining lease, the period shall be further extended till the mining lease is granted.

**23. Conditions of a prospecting license.**—(1) Every prospecting license shall include the following conditions:—

(i) The licensee shall pay such prospecting fee as may be fixed by the State Government, not less than two annas and not more than one rupee per acre of the land covered by the license, for each year or portion of a year of the period for which the license is granted or renewed.

(ii) In the case of minerals other than gold, silver, precious stones or mica, the license shall not confer upon the licensee a right to win or carry away the minerals for commercial purposes:

Provided that he may carry away—

(a) any quantity within the limits specified in the Second Schedule without any payment; and

(b) any quantity exceeding such limits <sup>33</sup>[but not exceeding twice such limits], which is incidental to prospecting, on payment of <sup>33a</sup>[royalty in accordance with Schedule I.]

(iii) In case of gold, silver, precious stones or mica the licensee may carry away any quantity won during the course of prospecting on payment of <sup>33a</sup>[royalty in accordance with Schedule I.]

(iv) The licensee may, with the previous sanction of the State Government, transfer his license or any right <sup>34</sup>[title] or interest therein to a person holding certificate of approval on payment to the State Government of a fee of Rs. 100.

<sup>35</sup>[Provided that no prospecting license or any right, title or interest therein in respect of any mineral specified in Schedule IV shall be so transferred except with the previous approval of the Central Government.]

(v) Save in the case of land over which the licensee is granted a mining lease, he shall, within six months next after the determination of the license or the date of abandonment of the undertaking whichever is earlier, securely plug all bores and fill up or fence all excavations in the land covered by the license.

(vi) In case of breach by the licensee or his transferee or assignee of any of the conditions of his license, the State Government may cancel the license, or forfeit, in whole or part, the deposit made by the licensee under rule 19.

(2) A prospecting license may contain such other conditions, as the State Government may deem fit, including the following:—

(i) Time and place of payment of the fee;

(ii) Compensation for damage to land in respect of which license has been granted;

(iii) Indemnity to Government against the claim of a third party for any damage, injury or disturbance caused to him by the licensee;

(iv) Restrictions regarding felling of trees on unoccupied and unreserved Government land;

(v) Restrictions on prospecting operations in an area prohibited by any competent authority;

(vi) Operations in a reserved or protected forest;

(vii) Conditions regarding entry on occupied land;

(viii) Forfeiture of property left after determination of license;

(ix) Power to take possession of plant, machinery and premises in the event of war or emergency

<sup>32</sup> Added by Notification No. M.II-152(105), dated 22nd June, 1953.

<sup>33</sup> Inserted by Notification No. M.II-152(213), dated 17th November 1953.

<sup>33a</sup> Inserted by Notification No. S.R.O. 349 dated the 10th February, 1956.

<sup>34</sup> Inserted by Notification No. M.II-159(8), dated 21st March, 1951.

<sup>35</sup> Inserted by Notification No. 25 dated 21st December, 1954.

**24. Right to mining lease.**—On or before the determination of his license, the licensee shall have a right to a mining lease or leases over the whole or part of the area covered by the license, in accordance with the rules in force governing such leases at the time of the grant of the license:

<sup>36</sup>[Provided that the State Government may for reasons to be recorded in writing and communicated to the licensee, refuse to grant a mining lease to any such licensee].

**25. Report of information obtained by licensee.**—The licensee shall, before the deposit made under rule 19 is returned to him, submit confidentially to the State Government a full report of the work done by him, and disclose all information acquired in the course of the operations carried on under the license, regarding the geology and mineral resources of the area covered by the license. <sup>37</sup>[If the licensee applies for and is granted a mining lease over the whole or part of the area covered by the prospecting license, the report shall be submitted to the State Government within one year of the date of the lease].

#### CHAPTER IV—GRANT OF MINING LEASE IN RESPECT OF LAND IN WHICH THE MINERALS BELONG TO GOVERNMENT

**26. Restrictions of grant of mining leases.**—(1) No mining lease shall be granted to any person unless he holds a certificate of approval from the State Government concerned or is covered by Rule 12; <sup>38</sup> \* \* \* \* <sup>39</sup>[No mining lease shall be granted to a person who applies under rule 61, unless he produces before the State Government an income-tax clearance certificate from the Income-tax Officer of the District where he resides and carries on business].

<sup>40</sup>[(1-A) (a) Where such person is a company, it shall be incorporated under the Indian Companies Act, 1913 (VII of 1913); and where such person is a partnership firm, it shall be registered under the Indian Partnership Act, 1932 (IX of 1932).

(b) Where such person is an individual and is not a citizen of India or where such person is a partnership firm which consists of one or more partners who are not citizens of India, the State Government shall not grant any mining lease to such person without the previous approval of the Central Government.]

(2) No mining lease shall be granted in respect of any such mineral or class of minerals as the Central Government may, by order communicated to the State Government concerned, specify either throughout, or in such part of the State as may be specified in the order.

(3) No mining lease for any mineral specified in Schedule IV shall be granted except with the prior approval of the Central Government.

<sup>41</sup>(4) \* \* \* \* \*

**27. Application for mining lease.**—An application for a mining lease shall, in case of land in which the minerals belong to Government, be made to the State Government concerned <sup>42</sup>[through such officer or authority as it may appoint in this behalf] and shall contain the following particulars:—

(a) (i) If the applicant is an individual, his name, nationality, profession and residence, and

<sup>43</sup>[(ii) If the applicant is a partnership firm, a company or an association or body of individuals, whether incorporated or not, its name, nature and place of business, place of registration or incorporation and except in the case of a company which is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913) the names and addresses of the individuals constituting such partnership firm, company, association or body.]

(b) The number and date of the notification of the grant or renewal of certificate of approval of the applicant;

<sup>36</sup> Added by Notification No. M.II-159(10), dated 7th November, 1951.

<sup>37</sup> Inserted by Notification No. M.II-159(6), dated 31st July, 1951.

<sup>38</sup> The words "and if he is an individual other than a citizen of India, unless the prior approval of the Central Government has also been obtained" deleted by the Notification No. S.R.O. 369 dated 4th February, 1955.

<sup>39</sup> Inserted by Notification No. M.II-152(73), dated 29th February, 1952.

<sup>40</sup> This sub-rule was inserted by Notification No. S.R.O. 369 dated 4th February, 1955.

<sup>41</sup> Sub-rule (4) was omitted by Notification No. M.II-159(5), dated 23rd February, 1953.

<sup>42</sup> Inserted by Notification No. M.II-155(56), dated 9th December, 1949.

<sup>43</sup> Substituted by Notification No. M.II-152(268)/53, dated 11th May, 1954.

- (c) A description, illustrated by a map or plan, showing as accurately as possible the situation, boundaries and area of the land in respect of which the lease is required;
- (d) The mineral or minerals which the applicant intends to mine;
- (e) The areas and minerals within the jurisdiction of the State Government for which the applicant or any person joint in interest with him already holds a mining lease;
- (f) If the applicant holds a prospecting license for the area applied for, the number and date of such license;
- (g) The period for which the lease is required; and
- (h) The industry, if any, which the applicant proposes to develop, and the location of such industry.

<sup>44</sup>[*Explanation*:—The map or plan referred to in item (c) should give sufficient information to enable identification of the area in respect of which the lease is required.]

**28. Application fee.**—(1) The application shall be accompanied by a fee of Rs. 200. If the State Government refuses to grant the lease applied for or if the applicant refuses to accept the lease on account of any special condition imposed therein under sub-rule (3) of rule 41, the fee shall be refunded.

<sup>45</sup>[(2) When an application for a mining lease is refused by the State Government, intimation of the refusal shall be given to the applicant in writing.]

<sup>46</sup>[(3) In the event of death of an applicant before grant of a mining lease, the fee paid under sub-rule (1) shall be refunded to his legal representative].

<sup>47</sup>[**28A. Lease to be executed within six months.**—When a mining lease is granted, the formal lease shall be executed within six months of the order sanctioning the lease and if no such lease is executed within the aforesaid period the order sanctioning the lease shall be deemed to have been revoked:

Provided that where <sup>48</sup>[the State Government or any officer or authority of the State Government authorised by it in this behalf] is satisfied that the applicant for the lease is not responsible for the delay in the execution of the formal lease, <sup>49</sup>[that Government or as the case may be, that officer or authority] may permit the execution of the formal lease after the expiry of the aforesaid period of six months.]

**29. Deposit for preliminary expenses.**—With the application, applicant shall deposit for meeting the preliminary expenses such sum, not exceeding Rs 500, as the State Government may determine.

**30. Survey of the area leased.**—When a mining lease is granted by the State Government, arrangements shall be made at the expense of the lessee for the survey and demarcation of the area granted under the lease.

**31. Acknowledgment of application.**—On receipt of the application, the receiving officer shall note thereon the date and time of its receipt, and shall give to the applicant an acknowledgment stating the date and time of receipt.

**32. Priority.**—(1) If more than one application regarding the same land is received, preference shall be given to the application received first, unless the State Government, for any special reason, and with the prior approval of the Central Government decides to the contrary.

<sup>49</sup>[Provided that where more than one application in respect of the same land is received on the same day, the State Government, after taking into consideration the matters specified in sub-rule (2) and after obtaining the prior approval of the Central Government, may grant the mining lease to such one of the applicants whom it considers to be the most suitable.]

<sup>50</sup>[Provided further that no application shall be deemed to be incomplete for the purposes of this rule on account of the omission or misdescription of the number and date of the prospecting licence and of the <sup>51</sup>[profession or residence or nationality] in the case of an individual or of the place of business in the case of a partnership firm, a company or an association or body of individuals, whether incorporated or not, if such

<sup>44</sup> Added by Notification No. M.II-125(103), dated 29th July, 1953.

<sup>45</sup> Inserted by Notification No. M.II-159(6), dated 31st July, 1951.

<sup>46</sup> Inserted by Notification No. M.II-152(239), dated 28th December, 1953.

<sup>47</sup> Inserted by Notification No. M.II-159(20), dated 27th February, 1953.

<sup>48</sup> Substituted by Notification No. M.II-152(15)/54, dated 24th April, 1954.

<sup>49</sup> Inserted by Notification No. M.II-152(103), dated 29th July, 1953.

<sup>50</sup> Inserted by Notification No. M.II-152(268)/53, dated 11th May, 1954.

<sup>51</sup> Substituted by Notification No. S.R.O. 1401 dated the 22nd/23rd June, 1955.

omission or misdescription is corrected within a period specified by the State Government or an officer appointed by that Government in this behalf.]

<sup>52</sup>[(2) The matters referred to in the proviso to sub-rule (1) shall be the following namely:—

- (i) experience of the applicants in mining.
- (ii) financial soundness and stability of the applicants.
- (iii) special knowledge of geology or mining and the technical staff already employed or to be employed for the work.]

**33. Register of mining leases.**—A register of mining leases shall be maintained by the State Government specifying, as far as may be, the particulars specified in rule 20.

**34. Inspection of register.**—The register shall be open to inspection by any holder of a certificate of approval or a prospecting license or a mining lease or his duly authorised agent, on payment of such fee as the State Government may fix.

<sup>53</sup>[*Explanation*:—The expression 'holder of a certificate of approval' includes a person whose certificate has expired but who is eligible to apply for its renewal].

**35. Area of mining lease.**—Where the applicant applies direct for a mining lease under rule 61, it may be granted for such area as the State Government deems fit. Where the applicant has a right to a mining lease under rule 24, the lease shall cover the whole or such part of the land covered by the prospecting license as the applicant may desire but the State Government may, for any special reason, and with the prior approval of the Central Government, reduce the area, or exclude a portion therefrom:

Provided that no lessee, by himself or with any person joint in interest with him, shall hold, in the aggregate, more than 10 square miles under lease in respect of one mineral or related group of minerals within the State:

Provided further that at the time of renewal of the lease, the lessee shall be entitled to surrender any part of the leased area.

<sup>54</sup>[*Explanation*.—In the first proviso to this rule, the ten miles area is inclusive of lands taken on lease from private persons and situated within the State.]

**36. Security deposit.**—The applicant shall, before the lease is issued, deposit as security a sum of Rs. 1,000 in case of metalliferous minerals and Rs. 500 in case of other minerals, for due observance of the terms and conditions of the lease.

**37. Transfer of lease.**—The lessee may, with the previous sanction of the State Government and subject to the conditions specified in the first proviso to rule 35 and in rule 38, transfer his lease or any right <sup>55</sup>[title] or interest therein, to a person holding a certificate of approval on payment of a fee of Rs. 100 to the State Government.

<sup>56</sup>[Provided that no mining lease or any right, title or interest therein in respect of any mineral specified in Schedule IV shall be so transferred except with the previous approval of the Central Government];

**38. Length and breadth of area leased.**—The length of an area held under a mining lease shall not exceed four times its breadth:

Provided that, in the case of coal, the length shall not exceed twice the breadth and the area leased or sub-leased shall not be less than 100 acres:

Provided further that the State Government may in any particular case relax the provisions of this rule.

**39. Boundaries below the surface.**—The boundaries of the area covered by a mining lease shall run vertically downwards below the surface towards the centre of the earth.

**40. Period of lease.**—(1) The period for which a mining lease may be granted shall be 30 years in the case of <sup>57</sup>[coal], iron-ore and bauxite for manufacture of aluminium, and 20 years in the case of any other minerals, unless the applicant himself asks for a shorter period. The lease shall be renewable at the option of the lessee, for one or two periods, each not exceeding the duration of the original lease, in the case of iron-ore and bauxite for manufacture of aluminium, and one period not exceeding the duration of the original lease in the case of other minerals.

<sup>52</sup> Inserted by Notification No. M.II-152(103), dated 29th July, 1953.

<sup>53</sup> Added by Notification No. M.II-152(105), dated 22nd June, 1953.

<sup>54</sup> Inserted by Notification No. M.II-159(6), dated 31st July, 1951.

<sup>55</sup> Inserted by Notification No. M.II-159(8), dated 21st March, 1951.

<sup>56</sup> The proviso was inserted by the Notification No. S.R.O. 25 dated 21st Dec., 1954.

<sup>57</sup> Inserted by Notification No. M.II-159(7), dated 15th December, 1951.

## (2) When renewal is granted—

- (i) royalty and surface rent shall be charged at the rates in force at the time of the renewal; and
- (ii) dead rent shall be charged at such rate as the State Government may fix within the limits specified in the Third Schedule in force at the time of the renewals.

## 41. Conditions.—(1) Every mining lease shall include the following conditions:—

- (i) The lessee shall pay royalty on minerals despatched from the leased area<sup>57a</sup> [in accordance with Schedule I] to these Rules:

<sup>58</sup> [Provided that such rates shall be liable to be revised with effect from the beginning of the year 1955 and thereafter once in every 10 years:

Provided further that, in the case of a lease executed after the coming into force of these Rules, the lessee shall not be required to pay, during the currency of his lease, a rate of royalty exceeding  $1\frac{1}{2}$  times the original rate specified in his lease.]

- (ii) If any mineral not specified in the lease is discovered in the leased area he shall not win and dispose of such mineral without obtaining a lease therefor. If he fails to apply for such lease within twelve months from the discovery of the mineral the State Government may give a lease in respect of such mineral to any other person.
- (iii) The lessee shall also pay, for every year, except the first year of the lease, such yearly dead rent within the limits specified in the Third Schedule to these Rules, as may be fixed by the State Government in the lease; and if the lease permits the working of more than one mineral in the same area, the State Government may charge separate dead rent in respect of each mineral:

Provided that the lessee shall be liable to pay the dead-rent or royalty in respect of each mineral, whichever be higher in amount, but not both.

- (iv) The lessee shall also pay, for the surface area used by him for the purposes of the mine, surface rent at such rate, not exceeding the land revenue and cesses assessable on the land, as may be specified by the State Government in the lease.
- (v) Unless the State Government for good cause permits otherwise, the lessee shall commence operations within one year from the date of execution of the lease and shall thereafter carry them on in a proper, skilful and workmanlike manner.

*Explanation.*—For the purposes of this clause, operations shall include the erection of machinery, laying of a tramway or construction of a road in connection with the mine.

- (vi) The lessee shall, at his own expense, erect and at all times maintain and keep in good repairs boundary marks and pillars necessary to indicate the demarcation shown in the plan annexed to his lease.
- (vii) The lessee shall not carry on, or allow to be carried on, any mining operations at any point within a distance of 50 yards from any railway line, except with the written permission of the Railway Administration concerned, or from any reservoir, canal or other public works, or buildings, except with the previous permission of the State Government. The Railway Administration or the State Government may, in granting such permission, impose such conditions as it may deem fit.
- (viii) The lessee shall keep correct accounts showing the quantity and other particulars of all minerals obtained and despatched from the mine, the number of persons employed therein, and complete plans of the mine, and shall allow any officer authorised by the Central or the State Government in that behalf to examine at any time any accounts, plans and records maintained by him and shall furnish the Central or State Government with such information and returns as it may prescribe.

- (ix) The lessee shall keep accurate records of all trenches, pits and drillings made by him in the course of operations carried on by him under the lease, and

<sup>57a</sup> Substituted by Notification No. S.R.O. 349 dated the 10th February, 1956.

<sup>58</sup> Added by Notification No. M.II-159(4), dated 19th May, 1951.

shall allow any officer authorized by the State or the Central Government to inspect the same. Such records shall contain the following particulars:—

- (a) The subsoil and strata through which such trenches, pits or drillings pass;
  - (b) Any mineral encountered;
  - (c) Such other matter as the Central or the State Government may from time to time require.
- (x) The lessee shall strengthen and support, to the satisfaction of the Railway Administration concerned, or the State Government, as the case may be, any part of the mine which in its opinion require such strengthening or support for the safety of any Railway, reservoir, canal road or any other public works or structures.
  - (xi) The lessee shall allow any officer authorised by the Central or the State Government to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the same.
  - (xii) The lessee shall, without delay, report to the State Government the discovery, in the area comprised in his lease, of any mineral not specified in the lease.
  - (xiii) The State Government shall at all times have the right of pre-emption of the minerals won from the land in respect of which the lease has been granted: Provided that the fair market price prevailing at the time of pre-emption, shall be paid to the lessee for all such minerals.
  - (xiv) If the lessee, or his transferee or assignee does not allow entry or inspection under clauses (viii), (ix) or (xi), the State Government may cancel the lease and forfeit in whole or part of the deposit made by the lessee under rule 36.
  - (xv) In case of breach by the lessee or his transferee or assignee of any of the conditions specified in clauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of this rule the State Government shall give notice in writing to the lessee asking him to remedy the breach within <sup>59</sup>[sixty] days from the date of the notice, and if the breach is not remedied within such period, the State Government may determine the lease.
  - (xvi) In case of breach by the lessee or his transferee or assignee of any other condition of this lease, the State Government may require the lessee to pay a penalty not exceeding an amount equivalent to twice the amount of the annual dead rent.

(2) A mining lease may contain such other conditions, as the State Government may deem necessary, in regard to the following:—

- (i) Time limit, mode and place of payment of rents and royalties;
- (ii) Compensation for damage to the land covered by the lease;
- (iii) Felling of trees;
- (iv) Restriction of surface operations in any area prohibited by any authority;
- (v) Notice by lessee for surface occupation;
- (vi) Providing of proper weighing machines;
- (vii) Facilities to be given by the lessee for working other minerals in the leased area or adjacent areas;
- (viii) Entering and working in a reserved or protected forest;
- (ix) Securing pits and shafts;
- (x) Reporting of accidents;
- (xi) Indemnity to Government against claims of third parties;
- (xii) Delivery of possession over lands and mines on the surrender, expiration or determination of the lease;
- (xiii) Forfeiture of property left after determination of lease;
- (xiv) Power to take possession of plant, machinery, premises and mines in the event of war or emergency.

(3) A mining lease may contain any other special condition, subject to the prior approval of the Central Government.

42. **Rights of lessee.**—Subject to the conditions mentioned in rule 41, the lessee shall have the right, for the purpose of his mining operations, to—

- (1) work mines;
- (2) sink pits and shafts and construct buildings and roads;
- (3) erect plant and machinery;
- (4) quarry and obtain building and road materials and make bricks;
- (5) use water and take timber;

<sup>59</sup> Substituted by Notification No. M.II-159(6), dated 31st July, 1951.



- (6) use land for stacking purposes;
- (7) do any other thing specified in the lease.

**43. Right to determine lease.**—The lessee may determine the lease at any time by giving not less than twelve months' notice in writing to the State Government.

#### CHAPTER V—GRANT OF MINERAL CONCESSIONS BY PRIVATE PERSONS

**44. Applicability of this Chapter.**—The provisions of this Chapter shall apply to mineral concessions granted by private persons.

**45. Certificate of approval essential.**—No prospecting license or mining lease shall be granted except to a person holding a certificate of approval from the State Government having jurisdiction over the land in respect of which the concession is required:

Provided that, in the case of an individual who is not a citizen of India, the prior approval of the Central Government shall also be required:

Provided further that, no prospecting license or mining lease for any mineral specified in Schedule IV shall be granted except with the prior approval of the Central Government.

60 \* \* \* \*

<sup>61</sup>[Provided further that the application for prior approval of the Central Government under this rule shall be made through the State Government concerned by the lessor.]

**46. Conditions of prospecting license.**—A prospecting license granted by a private person shall be subject to the following conditions:—

- (i) The period shall not exceed 2 years.
- (ii) The licensee shall pay for each year or portion of a year such fee, between two annas and one rupee per acre, as may be agreed upon between the parties.
- (iii) In the case of minerals other than gold, silver, precious stones or mica, the license shall not confer upon the licensee a right to win or carry away the minerals for commercial purposes:

Provided that he may carry away—

- (a) any quantity within the limit specified in the Second Schedule without any payment; and
- (b) any quantity exceeding such limits, which is incidental to prospecting, on payment of <sup>61a</sup>[royalty in accordance with Schedule I.]
- (iv) In the case of gold, silver, precious stones or mica the licensee may carry away any quantity won during the course of prospecting on payment of <sup>61a</sup>[royalty in accordance with Schedule I.]
- (v) Such other conditions as may be agreed upon between the parties.

**47. Conditions in a mining lease.**—A mining lease granted by a private person shall be subject to the following conditions:—

<sup>62</sup>[(i) Except leases in respect of coal, iron ore and bauxite for the manufacture of aluminum, for which the period of lease shall be 30 years, all other leases shall be for a period not exceeding 20 years. All leases shall be renewable at the option of the lessee for one term not exceeding the duration of the original lease.]

<sup>63</sup>[(ii) No lessee, by himself or with any person joint in interest with him, shall hold, in the aggregate, more than 10 square miles under lease in respect of one mineral or related group of minerals within the State, including areas taken on lease from any private person or persons]

<sup>64</sup>[(iii) The length of an area leased shall not exceed four times its breadth.

(iv) The provisions of clauses (i), (ii), (iii), (iv), (v), (vi), (vii), (ix), (x), (xi) and (xv) of sub-rule (1) of rule 41 shall apply to such lease with the modification that in clauses (ii), (iii), (iv) and (xv) for the words "State Government" the word "lessor" shall be substituted.

<sup>60</sup> The words from "and no mining operation for any mineral specified in that Schedule shall start except with the prior approval of the Central Government" were omitted by Notification No. M.II-159(5), dated 23rd February, 1953.

<sup>61</sup> Inserted by Notification No. M.II-159(2), dated 2nd November, 1950.

<sup>61a</sup> Substituted by Notification No. S.R.O. 349 dated the 10th February, 1956.

<sup>62</sup> Substituted by Notification No. M.II-159(7), dated 15th December, 1951.

<sup>63</sup> Substituted by Notification No. M.II-159(6), dated 31st July, 1951.

<sup>64</sup> Clause (iii) was omitted and Clauses (iv) and (v) were renumbered as clauses (iii) and (iv) by Notification No. M.II-159(6), dated 31st July, 1951.

<sup>65</sup>[(v) The lessee may determine the lease at any time by giving not less than 12 months' notice in writing to the lessor.]

<sup>66</sup>[(vi) The lease may contain such other conditions as may be agreed upon between the parties.]

**48. Transfer or assignment.**—No prospecting license or mining lease to which the provisions of this Chapter shall apply <sup>66</sup>[or any right, title or interest in such license or lease] shall be transferred except to a person holding a certificate of approval from the State Government having jurisdiction over the land in respect of which such concession is granted.

<sup>67</sup>[Provided that no prospecting license or mining lease or any right, title or interest in such license or lease in respect of any mineral specified in Schedule IV shall be transferred except with the previous approval of the Central Government.]

<sup>68</sup>[**49. Submission of copy of license or lease.**—Every person obtaining a prospecting license or a mining lease from a private person, shall, within three months of the grant of such license or execution of such lease, submit to the State Government, in whose jurisdiction the area or areas covered by such concession is or are situated, a certified copy of the license or the lease.]

<sup>68</sup>[**50. Communication of transfer or assignment.**—Every transferee or assignee of a prospecting license or a mining lease, or of any right, title or interest therein, shall, within one month of such transfer or assignment, inform the State Government within whose jurisdiction the area or areas covered by such concession is or are situated, of the transfer or assignment and of the terms and conditions of such transfer or assignment.]

<sup>69</sup>[**51. Prohibition of premium.**—No person in granting or transferring or obtaining a prospecting licence or a mining lease or any right, title or interest in any such licence or lease shall charge or pay any premium in addition to or in lieu of the prospecting fee, surface rent, dead rent or royalty specified in such licence or lease or such proportionate part of such fee, rent or royalty as is payable in respect of such right, title or interest.]

<sup>70</sup>[**51A. Prohibition of working of mines.**—If the State Government has reason to believe that the grant or transfer of a prospecting licence or a mining lease or of any right, title or interest in such licence or lease is in contravention of any of the provisions of this Chapter, the State Government may, with the approval of the Central Government, direct the party or parties concerned to comply with such directions, and within such time, as may be considered necessary or desirable in the circumstances of the case; and in the event of non-compliance, the parties concerned shall not mine, quarry or dig for or excavate or collect any minerals from the mine or area to which the licence or lease relates.]

<sup>71</sup>[**52. Annual returns and statements.**—Every private person granting a prospecting license or a mining lease shall furnish annually to the State Government such returns and statements, within such period, as may be specified in it.]

<sup>72</sup>[**53. Penalty for granting prospecting licenses and mining leases in contravention of rules.**—If any person grants or transfers or obtains a prospecting licence or a mining lease or any right, title or interest therein in contravention of any of the provisions of this Chapter or acts in contravention of the provisions of rule 51A, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

<sup>73</sup>[**54. Penalty for failure to furnish returns, etc.**—Should any licensee or lessee or his transferee or assignee fail to furnish the documents or information or returns as prescribed in rules 49 or 50 or in clause (viii) of sub-rule (1) of rule 41 or refuse entry or inspection by an officer authorised by the Central Government or the State Government under clause (viii), (ix) or (xi) of sub-rule (1) of rule 41, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to Rs. 500 or with both.]

<sup>65</sup> Added by Notification No. M.II-159(6), dated 31st July, 1951.

<sup>66</sup> Inserted by Notification No. M.II-159(8), dated 21st March, 1951.

<sup>67</sup> The Proviso was added by Notification No. 25 dated 21st December, 1954.

<sup>68</sup> Added by Notification No. M.II-159(11), dated 26th October, 1951.

<sup>69</sup> Rule 49 was renumbered as 51 by Notification No. M.II-159(11), dated 26th October, 1951 and substituted by Notification No. S.R.O. 931 dated 26th April, 1955.

<sup>70</sup> Inserted by Notification No. S.R.O. 931 dated 26th April, 1955.

<sup>71</sup> Rules 50, 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60 were renumbered as 52, 53, 57, 59, 60, 61, 62, 63, 64 and 65 respectively by Notification No. M.II-159(11), dated 26th October, 1951.

<sup>72</sup> Substituted by Notification No. S.R.O. 931 dated 26th April, 1955.

<sup>73</sup> Added by Notification No. M.II-159(11), dated 26th October, 1951.

**74[55. Offence cognisable upon written complaint.**—No court shall take cognisance of any offence punishable under these Rules, unless upon complaint made in writing by an officer empowered by the State Government in this behalf, within six months of the date on which the said offence is alleged to have been committed.]

**74[56. Status of Court.**—No court inferior to that of a Presidency Magistrate or a Magistrate of the first class try any offence punishable under these Rules.]

#### CHAPTER VI—REVISION

**57. Application for review.**—(1) Any person aggrieved by an order of a State Government—

(i) refusing to grant a certificate of approval, prospecting license or mining lease;

<sup>75</sup>[(i-A), refusing to renew a certificate of approval;]

<sup>76</sup>[(i-B) refusing to renew a prospecting license or mining lease;]

(ii) cancelling a prospecting license or mining lease;

(iii) refusing to permit transfer of a prospecting license under rule 23(iv) or a mining lease under rule 37;

may, within two months of the date of such order, apply to the Central Government for reviewing the same.

<sup>77</sup>[(2) An application for review under sub-rule (1) may be admitted after the period of limitation prescribed therein when the applicant satisfies the Central Government that he had sufficient cause for not making the application within the said period.]

**58. Application fee.**—<sup>78</sup>[An application for revision under rule <sup>79</sup>[57] shall be accompanied by a Treasury receipt showing that a fee of Rs. <sup>80</sup>[100] has been paid into a Government Treasury or in any branch of the <sup>80a</sup>[State Bank of India] doing the treasury business to the credit of the Head <sup>81</sup>[XXXVI-Miscellaneous Departments—Miscellaneous—Central—Mineral Concession fees].

**59. Review.**—Upon receipt of such application, the Central Government may, if it thinks fit, call for the relevant records and other information from the State Government, and after considering any explanation that may be offered by the State Government, cancel the order of State Government or revise it in such manner as the Central Government may deem just and proper.

**60. Finality of order.**—The order of the Central Government under rule <sup>82</sup>[59] and subject only to such order, any order of a State Government under these rules, shall be final.

#### CHAPTER VII—MISCELLANEOUS

**61. Direct application for mining lease.**—Any person holding a certificate of approval may, without obtaining a prospecting license, apply for a mining lease.

**62. Application of these rules to all renewals.**—Where a prospecting license or a mining lease granted before the commencement of these rules is renewed after such commencement, these rules shall apply in relation to such renewal as they apply in relation to the renewal of a prospecting license or mining lease granted after such commencement.

**<sup>83</sup>[62A. Power to rectify apparent mistake.**—The State Government or the Central Government, as the case may be, may, at any time within six months from the date of an order passed by it under these Rules, on its own motion rectify any mistake or error apparent on the face of the record, and shall, within the like period, rectify any such mistake or error which has been brought to its notice by an applicant for the grant of a mineral concession:

Provided that, no such rectification having or purporting to have a prejudicial effect on another applicant for the grant of the same mineral concession shall be made unless the State Government or the Central Government, as the case may be, has given such applicant notice of its intention so to do, and has allowed him a reasonable opportunity of being heard].

<sup>74</sup> Added by Notification No. M.II-159(11), dated 26th October, 1951.

<sup>75</sup> Inserted by Notification No. M.II-159(12), dated 1st February, 1952.

<sup>76</sup> Inserted by Notification No. S.R.O. 1186 dated 27th May, 1955.

<sup>77</sup> Inserted by Notification No. M.II-159(14), dated 12th February, 1952.

<sup>78</sup> Substituted by Notification No. M.II-155(92), dated 3rd May, 1950.

<sup>79</sup> Substituted by Notification No. M.II-159(11), dated 26th October, 1951.

<sup>80</sup> Substituted by Notification No. M.II-159(16), dated 10th July, 1952.

<sup>80a</sup> Substituted by Notification No. S.R.O. 302, dated the 1st February, 1956.

<sup>81</sup> Substituted by Notification No. M.II-155(92)-1, dated 1st June, 1950.

<sup>82</sup> Substituted by Notification No. M.II-159(11), dated 26th October, 1951.

<sup>83</sup> Added by Notification No. M.II-159(1)/54, dated 9th April, 1954.

<sup>84</sup>[63. **Forwarding of copies of licences and leases and annual return of licences and leases.**—A copy each of all the prospecting licences and mining leases granted in a State shall be supplied by the State Government to the Director, Indian Bureau of Mines, as soon as these are granted.]

In addition, a consolidated annual return of all the prospecting licences and mining leases granted in a State shall be supplied by the State Government to the Director, Indian Bureau of Mines in such form as may be specified by him, not later than the month of June following the year to which the return relates.]

64. **Forwarding of copies of reports.**—The State Government shall send copies of all reports received by it under rule 25 and clause (xiv) of sub-rule (1) of rule 41 to the Director, Indian Bureau of Mines.

<sup>85</sup>[65. **Saving.**—Nothing in these rules shall apply to search for minerals at the surface, not involving any substantial disturbance of the soil by the digging of pits, trenches or otherwise.]

*Explanation.*—The chipping of outcrops with a geological hammer for purpose of taking samples shall not be deemed to be a substantial disturbance of the soil.]

<sup>86</sup>[66. **Preference as between applications for prospecting license and mining lease.**—Where applications for both a prospecting license and a mining lease, in respect of the same area are received on the same date or different dates within a period of thirty days, the application for a mining lease shall receive preference over the application for a prospecting license if the area was previously held and worked under a mining lease:]

Provided that no such preference shall be given to the application for a mining lease if the application for a prospecting license was made earlier than the application for a mining lease by more than thirty days notwithstanding that the area is one which was previously held and worked under a mining lease.]

<sup>87</sup>[67. **Availability of areas for regrant to be signified by entry in Standard Register.**—No area which was previously held under a prospecting license or a mining lease shall be treated as available for regrant, unless an entry to that effect has been made in standard register. The date from which the area shall be treated as available for regrant, shall be notified in the official Gazette of the State at least 30 days in advance.]

*Explanation.*—For the purpose of this rule, the registers required to be maintained under rules 20 and 33 shall be deemed to be Standard Registers.]

<sup>87</sup>[68. **Premature applications.**—Applications for grant of a prospecting license or a mining lease in respect of areas which have been previously held under a prospecting license or a mining lease but in respect of which there is no entry in the Standard Register as provided in rule 67 shall be deemed to be premature and shall be disposed of by the State Government accordingly. The fee paid shall be refunded.]

<sup>88</sup>[69. A partnership firm, a company which is a private company as defined in the Indian Companies Act, 1913 (VII of 1913) or an association or body of individuals, whether incorporated or not, shall intimate promptly to the State Government any change that may take place in the individuals constituting such partnership firm, company, association or body].

#### SCHEDULE I—ROYALTY—(See rules 23, 41, 46 and 47)

- |  |   |
|--|---|
| 1. <b>Coal—</b>  | Five per cent. of f.o.r. statutory price subject to a minimum of As. 8 per ton. |
| 2. <sup>89</sup> [ <b>Mica—</b>  | <i>Either</i>   |
| (a) Crude mica ... ..  | Rs. 1 per md.   |
| (b) Trimmed mica, all qualities other than heavy stained, dense stained and spotted ... .. | Rs. 3 per md.   |
| (c) Trimmed mica, other than (b) ... ..  | Rs. 1-8-0 per md.   |
| (d) Waste and scrap mica ... ..  | As. 2 per md.   |
|  | <i>Or</i>   |
| 5 per cent. of the sale value of mica at the pit's mouth, at the option of the lessor.]    |   |

<sup>84</sup> Substituted by Notification No. S.R.O. 519 dated 28th February, 1955.

<sup>85</sup> Added by Notification No. M.II-155(108), dated 29th May, 1951.

<sup>86</sup> Substituted by Notification No. S.R.O. 98 dated 31st December, 1954.

<sup>87</sup> Inserted by Notification No. M.II-152(103), dated 29th July, 1953.

<sup>88</sup> Added by Notification No. M.II-152(268)/53, dated 11th May, 1954.

<sup>89</sup> Substituted by Notification No. M.II-159(6), dated 31st July, 1951.

- <sup>89</sup>[3. Gold, silver, platinum and other precious metals and their ores; To be fixed by the Central Government in copper, lead and zinc ores. ... each case.]
4. *Iron*—  
 (a) Used for extraction of iron As. 8 per ton.  
 (b) Used for other purposes ... Re. 1 per ton.
5. *Precious Stones* ... 20 per cent. of the value.
6. *Manganese ore*—  
 (a) High grade (45 per cent. Mn. and over) ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of Re. 1 per ton.  
 (b) Low grade (below 45 per cent. Mn.) ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 8 per ton.
7. *Chromite*—  
 (a) 45 per cent.  $\text{Cr}_2\text{O}_3$  and above ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of Rs. 1-8-0 per ton.  
 (b) Less than 45 per cent.  $\text{Cr}_2\text{O}_3$  ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 12 per ton.
- <sup>90</sup>7A \* \* \*
8. *Limestone or Dolomite* ... Five per cent. of the sale value at the pit's per ton, subject to a minimum of As. 4 per ton.
- <sup>90a</sup>[9. *Oil Shale* ... To be fixed by negotiation between the licensee/lessee and the State Government.]
10. *All other minerals not specified above* Five per cent. of the sale value at the pit's mouth.

SCHEDULE II—MAXIMUM QUANTITIES OF ORES AND MINERALS REMOVEABLE  
 FREE OF ROYALTY—(See rules 23 and 46)

- Class 1. Auriferous rock and gravel containing no visible gold ... 2 tons.
- Class 2. Metalliferous ores meant for extracting aluminium, iron and manganese ... 10 tons.
- Class 3. Metalliferous ores meant for extracting antimony, arsenic, bismuth, chromium, copper, lead, nickel, tin, titanium, tungsten and zinc 5 tons.
- Class 4. Metalliferous ores meant for extracting cadmium, cobalt, mercury, molybdenum, silver, hallium and vanadium ... 2 tons.
- Class 5. Compound ores containing the metals of class 4 in smaller quantities than those of class 3 ... 5 tons.
- Class 6. Concentrates of the ores enumerated in classes 3 to 5 ... 2 cwts.
- Class 7. Minerals of the "rare-earths" group ... 5 cwts.
- Class 8. Gypsum, iron pyrites, pyritous shales, and bauxite used for purposes other than aluminium making ... 5 tons.
- Class 9. Barytes, bitumen, borax, corundum, emery, <sup>91</sup>[grossularite], <sup>92</sup>[felspar flourspar and calcite] ...  $\frac{1}{2}$  ton.
- Class 10. Asbestos, graphite, mica and native sulphur ... 1 cwt.
- Class 11. Sillimanite, kyanite, magnesite, serpentine, steatite, vermiculite, fire-clay, kaolin and other refractory materials ... 5 tons.
- <sup>93</sup>[Class 12. Beryl ... 20 lbs.]
- <sup>93a</sup>[Class 13. Coal, lignite and oil shale ... 50 tons.]

<sup>90</sup> Item 7A was omitted by Notification No. M.II/159(6), dated 31st July, 1951.

<sup>90a</sup> Inserted by Notification No. S.R.O. 349 dated the 10th February, 1956.

<sup>91</sup> Inserted by Notification No. S.R.O. 1742 dated 4th August, 1955.

<sup>92</sup> Substituted by Notification No. M.II-152(12)/54, dated 10th May, 1954.

<sup>93</sup> Inserted by Notification No. M.II-159(17), dated 12th June, 1952.

<sup>93a</sup> Inserted by Notification No. S.R.O. 349 dated the 10th February, 1956.

## SCHEDULE III—DEAD-RENT (See rules 40 and 41)

						Per acre	
						Minimum	Maximum
						Rs.	Rs.
1.	Coal	...	...	...	...	1	5
<sup>94</sup> 2.	Iron ore	...	...	...	...	1	5
3.	Bauxite for extraction of aluminium	...	...	...	...	1	5
4.	Mica	...	...	...	...	2	8
5.	Gold, silver, platinum and other precious metals and precious stones	...	...	...	...	To be determined according to the circumstances of each case.	
1.	All other minerals	...	...	...	...	5	10

## SCHEDULE IV—SPECIFIED MINERALS (See rules 13, 26 and 45)

Coal; gypsum; <sup>95</sup>[apatite and phosphatic ores, sulphur and its ores]; vanadium ores; <sup>96</sup>[tungsten ores]; beryl; ilmenite and other titanium ores; monazite and other thorium minerals; pitchblende and other uranium ores; columbite, samarskite and other minerals of the "rare earths" group; <sup>97</sup>[zircon; lead, zinc, copper <sup>98</sup>[and nickel] ores;] <sup>99</sup>[gold, silver, platinum and other precious metals and their ores; and precious stone].

## ANNEXURE

1. Model forms for the grant of mineral concessions (including certificates of approval) under the Mineral Concession Rules, 1949.
2. Model forms of applications for the grant of mineral concessions (including certificate of approval) under the Mineral Concession Rules, 1949.
3. Model form of application for review under Rule 57 of the Mineral Concession Rules, 1949.

CERTIFICATE OF APPROVAL GRANTED UNDER THE  
MINERAL CONCESSION RULES, 1949

GOVERNMENT OF .....

No. .... Dated ..... 19 ..

This is to certify that .....

(Name of individual or Company)

(Address and occupation)

is approved as a person who is qualified to acquire Prospecting Licences and Mining Leases in respect of.....  
all minerals except.....

(mineral or minerals in case of restricted certificates)

Petroleum and Natural gas

.....  
in the State of.....under the rules  
contained in the Mineral Concession Rules, 1949, published under the Government  
of India, Ministry of Works, Mines and Power Notification No. M.II-155(24)-2, dated  
the 18th October 1949, as amended from time to time.

The certificate shall be valid up to the mid-night of 31st December 19 ..

Signature of Issuing Authority.

<sup>94</sup> The words "for extraction of iron" were omitted by Notification No. M.II-152(151), dated 11th April, 1953.

<sup>95</sup> Inserted by Notification No. M.II-159(18), dated 25th October, 1952.

<sup>96</sup> Inserted by Notification No. M.II-159(15), dated 31st March, 1952.

<sup>97</sup> Substituted by Notification No. M.II-155(89), dated 30th March, 1950.

<sup>98</sup> Inserted by Notification No. M.II-159(18), dated 25th October, 1952.

<sup>99</sup> Substituted by Notification No. M.II-159(6), dated 31st July, 1951.

- <sup>99</sup>[3. Gold, silver, platinum and other precious metals and their ores; To be fixed by the Central Government in copper, lead and zinc ores. each case.]
4. *Iron*—  
 (a) Used for extraction of iron As. 8 per ton.  
 (b) Used for other purposes ... Re. 1 per ton.
5. *Precious Stones* ... 20 per cent. of the value.
6. *Manganese ore*—  
 (a) High grade (45 per cent Mn. and over) ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of Re. 1 per ton.  
 (b) Low grade (below 45 per cent. Mn.) ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 8 per ton.
7. *Chromite*—  
 (a) 45 per cent.  $\text{Cr}_2\text{O}_3$  and above ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of Rs. 1-8-0 per ton.  
 (b) Less than 45 per cent.  $\text{Cr}_2\text{O}_3$  ... Five per cent. of the sale value at the pit's mouth, subject to a minimum of As. 12 per ton.
- <sup>90</sup>7A \* \* \*
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 FREE OF ROYALTY—(See rules 23 and 46)

Class 1.	Auriferous rock and gravel containing no visible gold	... 2 tons.
Class 2.	Metalliferous ores meant for extracting aluminium, iron and manganese	... 10 tons.
Class 3.	Metalliferous ores meant for extracting antimony, arsenic, bismuth, chromium, copper, lead, nickel, tin, titanium, tungsten and zinc	5 tons.
Class 4.	Metalliferous ores meant for extracting cadmium, cobalt, mercury, molybdenum, silver, hallium and vanadium	... 2 tons.
Class 5.	Compound ores containing the metals of class 4 in smaller quantities than those of class 3	... 5 tons.
Class 6.	Concentrates of the ores enumerated in classes 3 to 5	... 2 cwts.
Class 7.	Minerals of the "rare-earths" group	... 5 cwts.
Class 8.	Gypsum, iron pyrites, pyritous shales, and bauxite used for purposes other than aluminium making	... 5 tons.
Class 9.	Barytes, bitumen, borax, corundum, emery, <sup>91</sup> [grossularite], <sup>92</sup> [felspar flourspar and calcite]	... $\frac{1}{2}$ ton.
Class 10.	Asbestos, graphite, mica and native sulphur	... 1 cwt.
Class 11.	Sillimanite, kyanite, magnesite, serpentine, steatite, vermiculite, fire-clay, kaolin and other refractory materials	... 5 tons.
<sup>93</sup> [Class 12.	Beryl	... 20 lbs.]
<sup>93a</sup> [Class 13.	Coal, lignite and oil shale	... 50 tons.

<sup>90</sup> Item 7A was omitted by Notification No. M.II/159(6), dated 31st July, 1951.

<sup>90a</sup> Inserted by Notification No. S.R.O. 349 dated the 10th February, 1956.

<sup>91</sup> Inserted by Notification No. S.R.O. 1742 dated 4th August, 1955.

<sup>92</sup> Substituted by Notification No. M.II-152(12)/54, dated 10th May, 1954.

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<sup>94</sup> 2.	Iron ore	...	...	...	...	1	5
3.	Bauxite for extraction of aluminium	...	...	...	...	1	5
4.	Mica	...	...	...	...	2	8
5.	Gold, silver, platinum and other precious metals and precious stones	...	...	...	...	To be determined according to the circumstances of each case.	
1.	All other minerals	...	...	...	...	5	10

SCHEDULE IV—SPECIFIED MINERALS (See rules 13, 26 and 45)

Coal; gypsum; <sup>95</sup>[apatite and phosphatic ores, sulphur and its ores]; vanadium ores; <sup>96</sup>[tungsten ores]; beryl; ilmenite and other titanium ores; monazite and other thorium minerals; pitchblende and other uranium ores; columbite, samarskite and other minerals of the "rare earths" group; <sup>97</sup>[zircon; lead, zinc, copper <sup>98</sup>[and nickel] ores;] <sup>99</sup>[gold, silver, platinum and other precious metals and their ores; and precious stone].

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GOVERNMENT OF .....

No. .... Dated ..... 19 ..

This is to certify that .....

(Name of individual or Company)

(Address and occupation)

is approved as a person who is qualified to acquire Prospecting Licences and Mining Leases in respect of.....  
all minerals except.....

(mineral or minerals in case of restricted certificates)

Petroleum and Natural gas

.....  
in the State of .....under the rules contained in the Mineral Concession Rules, 1949, published under the Government of India, Ministry of Works, Mines and Power Notification No. M.II-155(24)-2, dated the 18th October 1949, as amended from time to time.

The certificate shall be valid up to the mid-night of 31st December 19 ..

Signature of Issuing Authority.

<sup>94</sup> The words "for extraction of iron" were omitted by Notification No. M.II-152(151), dated 11th April, 1953.

<sup>95</sup> Inserted by Notification No. M.II-159(18), dated 25th October, 1952.

<sup>96</sup> Inserted by Notification No. M.II-159(15), dated 31st March, 1952.

<sup>97</sup> Substituted by Notification No. M.II-155(89), dated 30th March, 1950.

<sup>98</sup> Inserted by Notification No. M.II-159(18), dated 25th October, 1952.

<sup>99</sup> Substituted by Notification No. M.II-159(6), dated 31st July, 1951.



This certificate is renewed upto:

31st December 19 .  
 31st December 19 .  
 31st December 19 .  
 31st December 19 .  
 31st December 19 .  
 31st December 19 .

*Signature of Renewing Authority.*

### MODEL FORM OF PROSPECTING LICENSE

This Indenture made this.....  
 day of 19 between the Governor/Rajpramukh of.....  
 (hereinafter referred to as "the State Government" which expression shall where  
 the context so admits be deemed to include his successors and assigns) of the one  
 part and

(1)<sup>1</sup> .....  
 of ..... (name of person)  
 .....  
 ..... (address and occupation)

(hereinafter referred to as "the licensee" which expression shall where the context  
 so admits be deemed to include his heirs, executors, administrators, representatives  
 and permitted assigns.

(1) and (2)<sup>2</sup>  
 of (name of person)  
 and (address and occupation)  
 of (name of person)  
 of (address and occupation)  
 and (name of person)  
 of (address and occupation)

hereinafter referred to as the licensees which expression shall where the context so  
 admits be deemed to include their respective heirs, executors, administrators, repre-  
 sentatives and their permitted assigns

(2) and (3)<sup>3</sup>  
 of (name of person)  
 and (address)  
 of (name of person)  
 and (address)  
 of (name of person)  
 of (address)

all carrying on business in partnership at  
 (address of the firm or syndicate) under the name and style  
 of (name of the firm or syndicate) registered under  
 (Act under which registered) (hereinafter referred to as the licensee which expression  
 shall when the context so admits be deemed to include all the partners of the said  
 firm, their representatives, heirs, executors, administrators and permitted assigns).

(3) and (4)<sup>4</sup>  
 (name of the company) a  
 registered under (company Act under which  
 incorporated)  
 and having its registered office at  
 (address) (hereinafter referred to  
 as the licensee which expression shall where the context so admits be deemed to  
 include its successors and permitted assigns) (4)  
 of the other part

<sup>1</sup> When the licensee is an individual.

<sup>2</sup> When the licensees are more than one individual.

<sup>3</sup> When the licensee is a registered firm or syndicate.

<sup>4</sup> When the licensee is a Registered Company.

WHEREAS the licensee/licensees has/have applied to the State Government in accordance with the Mineral Concession Rules, 1949 (hereinafter referred to as the said Rules) for a licence to prospect for in the lands specified in Schedule 'A' hereunder written and delineated in the plan herewith annexed (hereinafter referred to as the said lands) and has/have deposited with the State Government Rs. as the prescribed security in respect of such licence and has/have paid to the State Government the sum of Rs. as the prescribed prospecting fee for months/years in advance in respect of such licence and WHEREAS the State Government has found that the licensee is in possession of a valid Certificate of Approval and that there is no objection to the grant of such licence (and WHEREAS the Central Government has approved the grant of this licence).\* NOW THESE PRESENTS WITNESS as follows:—

## PART I

In consideration of the fee, royalties, covenants, and agreements hereinafter reserved and contained and on the part of the licensee/licensees to be paid observed and performed the State Government hereby grants and demises unto the licensee/licensees the sole right and licence—

(1) **To enter upon the lands and to search for, etc.**—To enter upon the said lands and to search for by quarrying, boring and digging or otherwise all or any..... lying or being within under or throughout the said lands.

(2) (i) **To win or carry away and dispose of minerals won.**—To win and carry away not more than..... tons for experimental purposes and any additional quantity which is incidentally won during the course of prospecting on payment of royalty at the rates specified in Schedule C hereunder written. The licensee shall not win or carry away any such minerals for any commercial purpose.

(ii) **To win and carry away any quantity of such minerals won during the course of prospecting on payment of royalty at the rates specified in Schedule C hereunder written.** (For gold, silver, precious stones and mica).

(3) **To clear under-growth and brushwood, etc.**— Subject to the provisions of clauses 5 and 6 of Part II of these presents for the purpose aforesaid to clear undergrowth and brushwood and trees and with the sanction of the Deputy Commissioner/Collector previously obtained in writing to make and use any drains or water courses on the said lands, for purposes as may be necessary for effectually carrying on the prospecting operations and for the workmen employed therein and with the like sanction to use any water provided always that such use shall not diminish or interfere with the supply of water to which any cultivated land, village, building or watering place for livestock has heretofore been accustomed and that no streams, springs or wells shall be fouled or polluted by any such use or the prospecting operations hereby licensed.

(4) **To bring upon and erect machinery, etc. on the said lands.**—To erect and bring upon the said lands all such temporary huts, sheds and structures steam, and other engines, machinery and conveniences, chatties and effects as shall be proper and necessary for effectually carrying on the prospecting operations hereby licensed or for the workmen employed therein.

RESERVED NEVERTHELESS to the State Government full power and liberty at all times to enter into and upon and to grant or demand to any person or persons whomsoever liberty to enter into and upon the said lands for all or any purposes other than those for which sole right and licence are hereby expressly conferred upon the licensee/licensees and particularly (and without hereby in any way qualifying such general power and liberty) to make on over or through the said lands such roads tramways and Railways as shall be considered necessary or expedient for any purposes and to obtain from and out of the said lands such stone, earth or other materials as may be necessary or requisite for making, repairing or maintaining, such roads, tramways and railways and to pass and repass at all times over and along such roads, tramways and railways for all purposes and as occasion shall require.

To HOLD the said right and licence unto the licensee/licensees from the date of these presents for the term of (hereinafter referred to as the said term).

PAYING therefor annually in advance a sum of Rs. being the prospecting fee for each year or portion of a year and immediately on the expiration or sooner determination of the said term clear of all fees, rates, taxes, charges, deductions and royalty at the rates specified in Schedules B and C hereunder written on the minerals won and carried away by the licensee/licensees during the said term.

\*In case of "Specified" minerals only.

## PART II—COVENANTS BY LICENSEE/LICENSEES

The licensee/licensees hereby covenants/covenant with the State Government as follows:—

(1) **Payment and rates of royalty.**—To pay royalty to the State Government at such rates and such time as are specified in schedule C hereunder written, provided that the licensee/licensees shall be entitled to carry away free of royalty not more than ..... for experimental purposes.

(2) **Payment of prospecting fee.**—To pay annually in advance a prospecting fee in respect of ensuing year at such rates and time as are specified in Schedule B hereunder written.

(3) **To carry on work in workmen-like manner.**—To work and carry on the operations hereby licensed in a fair orderly skilful and workmanlike manner and with as little damage as may be to the surface of the lands and to trees, crops, buildings, structures and other property thereon.

(4) **No working within 50 yards of public work, etc. without previous permission.**—Not to work or carry on any operations hereby licensed in or under the said lands at or to any point within a distance of 50 yards from any railway line except with the previous written permission of the Railway Administration concerned or from any reservoir, canal or other public work or any building or inhabited site except with the previous written permission of the Deputy Commissioner/Collector or any other officer authorised by the State Government in this behalf. The Railway Administration or the State Government or the Deputy Commissioner/Collector or other Officer authorised in this behalf in granting such permission may impose such conditions as it may deem fit. The said distance of 50 yards shall be measured in the case of a railway reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting as the case may be and in the case of a building horizontally from the plinth thereof.

(5) **Not to cut or injure trees in reserved forest, etc. without previous permission.**—Not to cut or injure any timber or tree or any unoccupied or unreserved land without the written permission of the Deputy Commissioner/Collector nor without such permission disturb the surface of any road or enter upon any public pleasure ground burning or burial ground or any place held sacred by any class of persons or interfere with any right of way, well or tank.

\*(6) **Not to enter upon any land in the occupation of any person without the consent of the occupier nor to cut or in any way injure any trees, standing crops, buildings, huts, structures or other property of any kind of the occupier of any land or any other person without the written consent of such owner, occupier or person.**

(7) **Not to commence work in reserved forest without previous permission.**—Not to enter upon or commence prospecting in any protected or reserved forest situated upon the said lands without obtaining the written sanction of the District Forest Officer, nor otherwise than in accordance with such conditions as may be prescribed in such sanction.

(8) **Indemnify Govt. against all claims.**—To make reasonable satisfaction and pay such compensation as may be assessed by lawful authority in accordance with the law in force on the subject for all damage, injury, or disturbance which may be done by him in exercising of the powers granted by this license and to indemnify and keep indemnified fully and completely the State Government against all claims which may be made by any person or persons in respect of any such damage, injury or disturbance and all costs and expenses in connection therewith.

(9) **Forfeiture of security deposits, etc.**—Whenever the security deposit of Rs. or any part thereof or any further sum hereafter deposited with the State Government in replenishment thereof shall be forfeited or applied by the State Government pursuant to the power hereinafter declared in that behalf forthwith to deposit with the State Government such further sum as may be sufficient with the unappropriated part thereof to bring the amount in deposit with the State Government upto the sum of Rs.

(10) **Licensee not to be controlled by trust, Syndicate, etc.**—The licensee/licensees shall not be controlled or permit himself/themselves to be controlled by any trust, syndicate, corporation, firm or person except with the written consent of the State Government, which will obtain the sanction of the Central Government.

(11) **Report of accident.**—The licensee/licensees shall without delay send to the Deputy Commissioner/Collector a report of any accident causing death or serious bodily injury or serious injury to property or seriously affecting or endangering life or property which may occur in the course of the operations under this license.

\* This clause should be suitably modified if it be not in accordance with the provisions of local law.

(12) The licensee/licensees shall be bound by such rules as may be issued by the Government of India under section 6 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948) and shall not carry on prospecting or other operations under the said license in any way other than as prescribed under those rules.

(13) **To provide for weighing or measurement of material won.**—At such times and occasions as may be required the licensee/licensees shall well and truly measure or weigh or cause to be measured or weighed upon some part of the said lands all minerals from time to time won from the said lands by the licensee/licensees and such all minerals as may be required to be measured or weighed for the purpose of ascertaining the royalty payable under these presents shall be so measured or weighed. The licensee/licensees agrees/agree not to take away from the said lands any mineral so won until the same shall have been measured or weighed as the case may be. The licensee/licensees further agrees/agree to give.....days previous notice in writing to the Deputy Commissioner/Collector of every such measuring or weighing in order that he or some person on his behalf may be present thereat.

(14) **Plugging of bore, holes, fencing, etc., and restoring the surface of land after determination or abandonment.**—Save in the case of land over which the licensee/licensees shall have been granted a mining lease on or before the expiration or sooner determination of the license, he shall within six months next after the expiration or sooner determination of the license or the date of abandonment of the undertaking, whichever shall first occur, securely plug any bore or hole and fill up or fence any holes or excavations that he may have made in the lands to such an extent as may be required by the Deputy Commissioner/Collector concerned and shall to a like extent restore the surface of the land and all buildings thereon which may have been damaged or destroyed in the course of prospecting, provided that the licensee/licensees shall not be required to restore the surface of the land, or any building in respect of which full and proper compensation has already been paid.

(15) **Removal of machinery etc. after expiration, determination or abandonment.**—Upon the expiration or sooner determination of this license or the abandonment of the operations hereby licensed whichever shall first occur to remove expeditiously at the licensee's/licensees' own cost all buildings, structures, plant, engines, machinery, implements, utensils and other property and effects theretofore erected or brought by the licensee/licensees and then standing or being upon the said lands and also all minerals theretofore won by the licensee/licensees under the authority of these presents and then being upon the said lands PROVIDED that this covenant shall not apply to any part of the said lands which may be comprised in any mining lease granted to the licensee/licensees during the subsistence of this license.

(16) **Report of work done before the refund of security deposit.**—At any time before the said security deposit is returned to him or transferred to any other account or within six months after the expiration or sooner determination of the license or abandonment of the operations whichever is earlier the licensee/licensees shall submit to the State Government confidentially a full report of the work done by him/them and disclose all information acquired by him/them in the course of the operations carried on under this license regarding the geology and mineral resources of the area covered by the license. If the licensee/licensees applies/apply for and is/are granted a mining lease over the whole or part of the area covered by the prospecting license, the report shall be submitted to the State Government within one year of the date of the lease.

### PART III—POWERS OF THE GOVERNMENT

It is hereby agreed as follows:—

(1) **Cancellation of the license and forfeiture of the deposit in case of breach of conditions.**—In the case of any breach of any conditions of the license by the licensee/licensees or his transferees or assignees the State Government may, where it is satisfied that the breach is such as cannot be remedied, on giving thirty days notice to the licensee/licensees or his transferees or assignees, to determine the license or the whole or any part of the said deposit of Rs. .... deposited under the covenants in that behalf, as the State Government may deem fit. In case the State Government considers the breach to be of a remediable nature, it shall give notice to the licensee/licensees or his transferees or assignees as the case may be requiring him/them to remedy the breach within thirty days from the date of receipt of the notice informing him of the penalty proposed to be inflicted if such remedy is not made within such period.

(2) **Application of security to payment of compensation.**—The State Government may from time to time appropriate and apply the said deposit of Rs. .... or any part thereof or any further sum deposited under any covenants in that behalf hereinbefore contained in or towards payment or satisfaction of any claims to compensation which the Government has or may have against the licensee/licensees and/or which may be made

by any person or persons against the licensee/licensees and or the State Government in respect of any damage or injury done by the licensee/licensees in exercise of any of the powers conferred by this license and in or towards payment of any damages, costs or expenses which may become payable as the result of or in connection with any suits or proceedings which may be instituted against the State Government in respects of any such damage or injury and also in or towards payment of the expenses of the carrying out or performance of any works or matters which the licensee/licensees shall fail to carry out or perform after the expiry or sooner determination of this license or the abandonment of the operations hereby licensed in accordance with the covenant in that behalf hereinbefore contained or in payment or satisfaction of any such claims, damages, costs and expenses.

(3) **When the properties of licensee are not removed from the lands in time.**—If any buildings, structures, plant, engines, machinery implements, utensils or other property or effects or any minerals which ought to be removed by the licensee/licensees from the said lands in accordance with the covenant in that behalf hereinbefore contained be not so removed within one calendar month after notice in writing requiring their removal shall have been given to the licensee/licensees by the State Government the same shall be deemed to become the property of the State Government and may be sold or disposed of for the benefit of the State Government in such manner as the State Government shall deem fit without any liability to pay any compensation or to account to the licensee/licensees in respect thereof.

(4) **Licensee to pay for work done on his behalf.**—If any of the works or matters which in accordance with the covenant in that behalf hereinbefore contained are to be carried or performed by the licensee be not so carried out or performed within the time specified in that behalf, the State Government may cause the same to be carried out or performed and the licensee shall pay the State Government on demand all expenses which shall be incurred in such carrying out or performance of the same.

(5) **Right of pre-emption.**—(a) The State Government shall from time to time and at all times during the said term have the right (to be exercised by notice in writing to the licensee/licensees) of pre-emption of the said minerals (and all products thereof) lying in or upon the said lands hereby demised or elsewhere under the control of the licensee/licensees and the licensee/licensees shall with all possible expedition deliver all minerals or products or minerals purchased by the State Government under the power conferred by this provision in the quantities at the times in the manner and at the place specified in the notice exercising the said right.

(b) Should the right of pre-emption conferred by this present provision be exercised and a vessel chartered to carry the minerals or products thereof procured on behalf of the State Government or the Central Government be detained on demurrage at the port of loading the licensee/licensees shall pay the amount due for demurrage according to the terms of the charter party of such vessel unless the State Government shall be satisfied that the delay is due to causes beyond the control of the licensee/licensees.

(c) The price to be paid for all minerals or products of minerals taken in pre-emption by the State Government in exercise of the right hereby conferred shall be the fair market price prevailing at the time of pre-emption PROVIDED THAT in order to assist in arriving at the said fair market price the licensee/licensees shall if so required furnish to the State Government for the confidential information of the Government particulars of the quantities descriptions and prices of the said mineral or products thereof sold to other customers and of charters entered into for freight for carriage of the same and shall produce to such officer or officers as may be directed by the State Government original or authenticated copies of contracts and charter parties entered into for the sale or freightage of such minerals or products.

(d) In the event of the existence of a state of war or emergency (of which existence the President of India shall be the sole judge and a notification to this effect in the Gazette of India shall be conclusive proof) the State Government with the consent of the Central Government shall from time to time and all times during the said term have the right (to be exercised by a notice in writing to the licensee/licensees) forthwith take possession and control of the works plant machinery and premises of the licensee/licensees on or in connection with the said lands or the operations under this license and during such possession or control the licensee/licensees shall conform and obey all directions given by or on behalf of the Central or State Government regarding the use or employment of such works plants premises and minerals PROVIDED THAT fair compensation which shall be determined in default of agreement by the State Government shall be paid to the licensee/licensees for all loss or damage sustained by him/them by reason or in consequence of the exercise of the powers conferred by this clause and PROVIDED ALSO that the exercise of such powers shall not determine the said term hereby granted or affect the

terms and provisions of these presents further than may be necessary to give effect to the provisions of this clause.

#### PART IV—RIGHTS OF LICENSEE/LICENSEES

It is hereby further agreed as follows:—

(1) **Transfer of license and fee payable.**—During the subsistence of this licence or of any renewal thereof the licensee/licensees may, with the previous sanction of the State Government transfer his license or any right title or interest therein to a person holding a Certificate of Approval on payment to the State Government of a fee of rupees one hundred.

(2) Subject to compliance with the covenants of this license during the period hereby granted and subject to the satisfaction of the State Government that a longer period is necessary to enable the licensee/licensees to complete the prospecting the licensee/licensees may be granted a renewal or renewals for (i) one or more further periods not exceeding one year each but subject to a total period of four years from the date of the commencement of the original license (i).

(ii) one further period not exceeding one year (ii).

(3) **Right for mining lease.**—On or before the determination of the license or any renewal thereof the licensee/licensees shall have a right subject to the compliance with the said rules to a mining lease in respect of over the whole or part of the area covered by this license as the licensee/licensees may desire, in accordance with the rules in force governing the grant of mining leases at the time of the grant of this license PROVIDED THAT the State Government may for reasons to be recorded in writing and communicated to the licensee, refuse to grant a mining lease to any such licensee.

(4) **Extension of period of prospecting license.**—If the licensee/licensees before the determination of this license or of any renewal thereof applies for the grant of a mining lease over the whole or any part of the said lands, the period of this license shall be further extended over that part of the said lands until the mining lease is granted.

(5) **Refund of Deposit.**—On such date within six calendar months after the determination of this license or of any renewal thereof, as the State Government shall elect, the amount then remaining in deposit with the State Government and not required to be applied to any of the purposes in Part III of these presents mentioned, shall be refunded to the licensee/licensees or if the licensee/licensees shall have obtained a mining lease over the said lands or any portion thereof, be retained at the credit of the licensee/licensees on account of the fees rents and royalties to become payable under such lease. The amount shall in no case carry any interest whatsoever.

#### PART V—GENERAL PROVISIONS

It is lastly agreed as follows:—

(1) **Acquisition of land compensation thereof.**—If after the receipt of an offer of compensation for any damage which is likely to arise from the proposed operations of the licensee/licensees in occupier of the surface of any part of the said lands shall refuse his consent to the exercise of the rights and powers reserved to the State Government and demised by this license, the licensee/licensees shall report the matter to the State Government and shall deposit with it the amount offered as compensation and if the State Government is satisfied that the amount of compensation is reasonable or if it is not so satisfied and the licensee/licensees shall have deposited with it such further amount as the State Government may consider reasonable, the State Government shall order the occupier to allow the licensee/licensees to enter upon the said land and carry out such operations as may be necessary for the purpose of the license. In assessing the amount of such compensation the State Government shall be guided by the principles of the Land Acquisition Act.

(2) **Delay in fulfilment of the terms of license due to 'force majeure'.**—Failure on the part of the licensee/licensees to fulfil any of the terms and conditions of this license shall not give the State Government any claim against him/them or be deemed a breach of the license in so far as such failure is considered by the State Government to arise from *force majeure*. If the fulfilment of the licensee/licensees of any of the terms and conditions of this license be delayed from *force majeure*, the period of such delay shall be added to the period fixed by this license.

The expression *force majeure* means Act of God, war, insurrection, riot, civil commotion, strike, tide, tidalwave, storm, flood, lightning, explosion, fire, earthquake and any other happening which the licensee/licensees could not reasonably prevent or control.

(i) for all minerals except mica.

(ii) Mica.

(3) **Service of notices.**—Every notice required to be given to the licensee/licensees shall be given in writing to such person as the licensee/licensees may appoint for the purpose of receiving such notices or if no such appointment is made then the notice shall be sent to the licensee/licensees by registered post addressed to him/them at the address shown in his/their application for the license or at such other address in India as he/they may designate from time to time, and every such service shall be deemed to be proper and valid service upon the licensee/licensees and shall not be questioned or challenged by him.

IN WITNESS WHEREOF these presents have been executed in the manner hereunder appearing the day and year first above written.

#### SCHEDULE A—THE LAND COVERED BY THE LICENSE

Here insert the description of lands with area, boundaries, names of District, Sub-Division, Thana, etc. and cadastral survey numbers if any. In case a map is attached, refer the map in the description to be inserted.

#### SCHEDULE B—PROSPECTING FEE

(Here specify the amount of the prospecting fee, and the manner and time of payment).

#### SCHEDULE C—ROYALTY

(Here insert the rates of royalty, manner and time of payment).

Signed by

for and on behalf of

the Governor/Rajpramukh of

in the presence of

Signed by

for and on behalf of

the Common Seal of the above named company has been affixed hereto by .....  
and.....Directors of the said Company in the presence of.....

#### MODEL FORM OF MINING LEASE

THIS INDENTURE made this.....day of .....19..... BETWEEN THE GOVERNOR/RAJPRAMUKH OF.....(hereinafter referred to as the "State Government" which expression shall where the context so admits be deemed to include his successors in office and assigns) of the one part and (1)<sup>1</sup>.....(name of persons) of .....(address and occupation) (hereinafter referred to as "the lessee" which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives, and permitted assigns) (1) and (2)<sup>2</sup>.....(Name of person) of.....(Address and occupation) and .....(Name of person) of.....(Address and occupation) and.....(Name of person) of.....(Address and occupation) (hereinafter referred to as the lessees which expression shall where the context so admits be deemed to include their respective heirs, executors, administrators, representatives, and their permitted assigns) (2) and (3)<sup>3</sup>.....(Name of person) of.....(Address) and .....(Name of person) of.....(Address) all carrying on business in partnership at.....(address of the firm or syndicate) under the name and style of .....(name of the firm or syndicate) registered under .....(Act under which registered) (hereinafter referred to as the licensee which expression shall when the context so admits be deemed to include all the partners of the said firm, their representatives, heirs, executors, administrators and permitted assigns) (3) and (4)<sup>4</sup>.....(name of company) a company registered under .....(Act under which incorporated) and having its registered office at.....(address) (hereinafter referred to as the lessee which expression shall where the context so admits be deemed to include its successors and permitted assigns) (4) of the other part.

WHEREAS the lessee/lessees has/have applied to the State Government in accordance with the Mineral Concession Rules 1949 (hereinafter referred to as the said Rules) for a mining lease for .....in respect of the lands described in Part I of the Schedule have hereunder written and has/have deposited with the State Government the sum of Rs.....as security and the sum of Rs. ....for meeting the preliminary expenses for a mining lease and whereas the lessee in the possession of a valid certificate of

<sup>1</sup> When the lessee is an individual.

<sup>2</sup> When the lessees are more than one individual.

<sup>3</sup> When the licensee is a registered firm or syndicate.

<sup>4</sup> When the lessee is a registered company.

approval (and WHEREAS the Central Government has no objection to the grant of the lease)\*.

WITNESSETH that in consideration of the rents and royalties covenants and agreements by and in these presents and the schedule hereunder written reserved and contained and on the part of the lessee/lessees to be paid observed and performed the State Government (with the approval of the Central Government)\* hereby grants and demises unto lessee/lessees. All those the mines beds/veins seams of.....(here state the mineral or minerals hereinafter and in the Schedule referred to as the said minerals) situated lying and being in or under the lands which are referred to in Part I of the said Schedule, together with the liberties, powers and privileges to be exercised or enjoyed in connection herewith which are mentioned in Part II of the said Schedule subject to the restrictions and conditions as to the exercise and enjoyment of such liberties, powers and privileges which are mentioned in Part III of the said Schedule EXCEPT and reserving out of this demise unto the State Government the liberties, powers and privileges mentioned in Part IV of the said Schedule TO HOLD the premises hereby granted and demised upto the lessee/lessees from the ..... day ..... 19 ..... for the term of ..... years thence next ensuing YIELDING AND PAYING therefor unto the State Government the several rents and royalties mentioned in Part V of the said Schedule at the respective times therein specified subject to the provisions contained in Part VI of the said Schedule and the lessee/lessees hereby covenants/covenant with the State Government as in Part VII of the said Schedule is expressed and the State Government hereby covenants/covenant with the State Government as in Part VII of the said Schedule is expressed and the State Government hereby covenants with the lessee/lessees as in Part VIII of the said Schedule is expressed AND it is hereby mutually agreed between the parties hereto as in Part IX of the said Schedule is expressed.

IN WITNESS WHEREOF these presents have been executed in manner hereunder appearing the day and year first above written.

The Schedule above referred to

#### PART I—THE AREA OF THIS LEASE

**Location and area of the lease.**—All that tract of lands situated at..... (Description of area or areas).....in (Pargana) in .....the Registration District of.....Sub-District.....and Thana.....bearing Cadastral Survey Nos.....containing an area of.....or thereabouts delineated on the plan hereto annexed and thereon coloured.....and bounded as follows:—

- On the North by
- On the South by
- On the East by and
- On the West by

hereinafter referred to as "the said lands"

#### PART II—LIBERTIES, POWERS AND PRIVILEGES TO BE EXERCISED AND ENJOYED BY THE LESSEE/LESSEES SUBJECT TO THE RESTRICTION AND CONDITIONS IN PART III

1. **To enter upon land and search for win, work, etc.**—Liberty and power at all times during the term hereby demised to enter upon the said lands and to search for mine bore dig drill for win work dress process convert carry away and dispose of the said mineral/minerals.

2. **To sink drive and make pits shafts and inclines, etc.**—Liberty and power for or in connection with any of the purposes mentioned in this part to sink drive make maintain and use in the said lands any pits shafts inclines drifts levels waterways airways and other works (and to use maintain deepen or extend any existing works of the like nature in the said lands).

3. **To bring and use machinery equipment, etc.**—Liberty and power for or in connection with any of the purposes mentioned in this part to erect construct maintain and use on or under the said lands any engines machinery plant dressing floors furnaces coke ovens brick-kilns workshops store-houses bungalows godowns sheds and other buildings and other works and conveniences of the like nature on or under the said lands.

4. **To make roads and ways, etc. and use existing roads and ways.**—Liberty and power for or in connection with any of the purposes mentioned in this part to make any tram-

\*In case of "Specified" minerals only.



ways railways roads aircraft landing grounds and other ways in or over the said lands and to use maintain and go and repass with or without horses cattle wagons aircrafts locomotives or other vehicles over the same (or any existing tramways railways roads and other ways in or over the said lands) on such conditions as may be agreed to.

**5. To get building and road materials, etc.**—Liberty and power for or in connection with any of the purposes mentioned in this part to quarry and get stone gravel and other building and road materials and clay and to use and employ the same and to manufacture such clay into bricks or tiles and to use such bricks or tiles but not to sell any such material bricks or tiles.

**6. To use water from streams, etc.**—Liberty and power for or in connection with any of the purposes mentioned in this Part but subject to the rights of any existing or future lessees and with the written permission of Deputy Commissioner/Collector to appropriate and use water from any streams water-courses springs or other sources in or upon the said lands and to divert step up or dam any such stream or water course and collect or impound any such water and to make construct and maintain any water-course culverts drains or reservoirs but not as so to deprive any cultivated lands villages buildings or watering places for livestock of a reasonable supply of water as before accustomed nor in any way to foul or pollute any streams or springs. Provided that the lessee/lessees shall not interfere with the navigation in any navigable stream nor shall divest such stream without the previous written permission of the State Government.

**7. To use land for stacking heaping or depositing purposes.**—Liberty and power to enter upon and use a sufficient part of the surface of the said lands for the purpose of stacking heaping storing or depositing thereon any produce of the mines or works carried on and any tools equipment earth and materials and substances dug or raised under the liberties and powers mentioned in this part.

**8. Beneficiation and conveying away of production.**—(a) Liberty and power to enter upon and use a sufficient part of the said lands to beneficiate any ore produced from the said lands and to carry away such beneficiated ore.

(b) **To make coke. (To be used in case of coal only).**—Liberty and power upon the said lands to convert into coke any produced from the said lands and to carry away such coke.

**9. To clear brush-wood and to fell and utilise trees, etc.**—Liberty and power for or in connection with any of the purposes mentioned in this Part and subject to the existing rights of others and save as provided in clause 3 of Part III of this Schedule to clear under-growth and brushwood and to fell and utilise any trees or timber standing or found on the said lands provided that the State Government may ask the lessee/lessees to pay for any trees or timber felled and utilised by him/them at the rates specified by the Deputy Commissioner/Collector or the State Government.

#### PART III—RESTRICTIONS AND CONDITIONS AS TO THE EXERCISE OF THE LIBERTIES POWERS AND PRIVILEGES IN PART II

**1. No building, etc. upon certain places.**—No building or thing shall be erected set up or placed and no surface operations shall be carried on in or upon any public pleasure ground burning or burial ground or place held sacred by any class of persons or any house or village site public road or other place which the State Government may determine as public ground nor in such a manner as to injure or prejudicially affect any buildings works property or rights of other persons and no land shall be used for surface operations which is already occupied by persons other than the State Government for works or purposes not included in this lease. The lessee shall not also interfere with any right of way, well or tank.

**2. Permission for surface operations in a land not already in use.**—Before using for surface operations any land which has not already been used for such operations the lessee/lessees shall give to Deputy Commissioner/Collector of the District two calendar months previous notice in writing specifying the name or other designation of the situation and the extent of the land proposed to be so used and the purpose for which the same is required and the said land shall not be so used if objection is issued by the Deputy Commissioner/Collector within two months after the receipt by him of such notice unless the objections so stated shall on reference to the State Government be annulled or waived.

**3. To cut trees in unreserved lands.**—The lessee/lessees shall not without the express sanction of the Deputy Commissioner/Collector cut down or injure any timber or trees on the said lands but may without such sanction clear away any brushwood or under-growth which interferes with any operations authorised by these presents. The Deputy Commissioner/Collector or the State Government may require the lessee/lessees to pay

for any trees or timber felled and utilised by him/them at the rates specified by the Deputy Commissioner/Collector or the State Government.

4. **To enter upon reserved forests.**—Notwithstanding anything in this Schedule contained the lessee/lessees shall not enter upon any reserved forest included in the said lands without previous sanction in writing of the District Forest Officer nor fell cut and use any timber or trees without obtaining the sanction in writing of that Officer nor otherwise than in accordance with such conditions as the State Government may prescribe.

5. **No mining operations within 50 yards of public works, etc.**—The lessee/lessees shall not work or carry on or allow to be worked or carried on any mining operations at or to any point within a distance of 50 yards from any railway line except with the previous written permission of the Railway Administration concerned or from any reservoir, canal or other public works or buildings or inhabited site except with the previous permission of the Deputy Commissioner/Collector or any other Officer authorised by the State Government in this behalf and otherwise than in accordance with such instructions restrictions and conditions either general or special which may be attached to such permission. The said distance of 50 yards shall be measured in the case of railway reservoir or canal horizontally from the outer toe of the bank or the outer edge of the cutting as the case may be and in case of a building horizontally from the plinth thereof.

*Explanation.*—For the purposes of this clause the expression 'Railway Administration' shall have the same meaning as it is defined to have in the Indian Railway Act 1890, by Section 3 sub-section (4) of that Act. 'Public Road' shall mean a road which has been constructed by artificially surfaced as distinct from a tract resulting from repeated use.

6. **Facilities for adjoining Govt. licences and leases.**—The lessee/lessees shall allow existing and future holders of Government licences or leases over any land which is comprised in or adjoins or is reached by the land held by the lessee/lessees reasonable facilities of access thereto.

**PROVIDED THAT** no substantial hindrance or interference shall be caused by such holders of licences or leases to the operations of the lessee/lessees under these presents and fair compensation shall be made to the lessee/lessees for all loss or damage sustained by the lessee/lessees by reason of the exercise of this liberty.

#### PART IV—LIBERTIES POWERS AND PRIVILEGES RESERVED TO THE STATE GOVERNMENT

1. **To work other minerals.**—Liberty and power for the State Government or any lessee or persons authorised by it in that behalf to enter into and upon the said lands and to search for win work dig get raise dress process convert and carry away minerals other than the said minerals and any other substances and for those purposes to sink drive make erect construct maintain and use such pits shafts inclines drifts levels and other lines waterways airways water courses drains reservoirs engines machinery plant buildings canals tramways railways roadways and other works and conveniences as may be deemed necessary or convenient.

**PROVIDED THAT** in the exercise of such liberty and power no substantial hindrance or interference shall be caused to or with the liberties powers and privileges of the lessee/lessees under these presents and that fair compensation shall be made to the lessee/lessees for all loss or damage sustained by the lessee/lessees by reason or in consequence of the exercise of such liberty and power.

2. **To make railways and roads.**—Liberty and power for the State Government or any lessee or person authorised by it in that behalf to enter into and upon the said lands and to make upon over or through the same any railways tramways roadways or pipelines for any purpose other than those mentioned in Part II of these presents and to get from the said lands stones gravel earth and other materials for making maintaining and repairing such railways tramways and roads or any existing railways and roads and to go and repass at all times with or without horses cattle or other animals carts wagons carriages locomotives or other vehicles over or along any such railways tramways roads lines and other ways for all purposes and as occasions may require, provided that in the exercise of such liberty and power by such other lessee or person no substantial hindrance or interference shall be caused to or with the liberties powers and privileges of the lessee/lessees under these presents and that fair compensation shall be made to the lessee/lessees for all loss or damage sustained by the lessee/lessees by reason or in consequence of the exercise by such lessee or person of such liberty and power.

#### PART V—RENTS AND ROYALTIES RESERVED BY THIS LEASE

1. **To pay dead rent or royalty whichever is greater.**—The lessee/lessees shall not pay in respect of any half yearly period both the dead rent reserved by clause 2 of this

Part and also the sum of the royalties reserved by Clause 3 of this Part but only whichever of them is of the greater amount.

**2. Rate and mode of payment of dead rent.**—Subject to the provision of Clause I of this Part, as from the day of 19 , during the subsistence of this lease the lessee/lessees shall pay to the State Government (in two equal half yearly instalments on the day of and the day of in each year)\* certain annual dead rent at the following rates per acre of the lands described in Part I of this Schedule. (Here insert the amount payable under Rule 41(1) (iii) of the Mineral Concession Rules, 1949.)

**3. Rate and mode of payment of royalty.**—Subject to the provision of Clause I of this Part, the lessee/lessees shall during the subsistence of this lease pay to the State Government at such times and in such manner as the State Government may prescribe royalty as follows. Provided that this rate is subject to such alteration as may be prescribed by the Central Government under the proviso to rule 41(1) (i) of the Mineral Concession Rules, 1949.

(here insert the rate of royalty)

**4. Payment of surface rent.**—The lessee/lessees shall pay rent to the State Government in respect of all parts of the surface of the said lands which shall from time to time be occupied or used by the lessee/lessees under the authority of these presents at the rate of Rs.....per annum per acre of the area so occupied or used and so in proportion for any area less than an acre during the period from the commencement of such occupation or use until the area shall cease to be so occupied or used and shall so far as possible be restored to its original condition (which rent shall be paid upon each of the half-yearly dates hereinbefore appointed for the payment of the instalments of the certain annual dead rent)\* PROVIDED THAT NO such rent shall be payable in respect of the occupation and use of the area comprised in any roads or ways to which the public have full right to access.

#### PART VI.—PROVISIONS RELATING TO THE RENTS AND ROYALTIES

**1. Rent and Royalties to be free from deductions etc.**—The rent and royalties mentioned in Part V of this Schedule shall be paid free from any deductions to the State Government at ..... and in such manner as the State Government may prescribe PROVIDED ALWAYS and it is hereby agreed that Rs.....the balance standing to the credit of the lessee/lessees on account of the deposit made by him/them as a licensee/licencees over an area which included the said lands shall be retained and accepted by the State Government in satisfaction of the rents and royalties mentioned in Part V until they reach that amount.

**2. Mode of computation of royalty.**—For the purposes of computing the said royalties the lessee/lessees shall keep a correct account of the mineral/minerals produced and despatched. The accounts as well as the weight of the mineral/minerals in stock or in the process of export may be checked by any officer authorised by the Central or State Government.

(Specify the mode of arriving at pit-head value the rate of royalty chargeable and in case of lump-sum royalty per ton this sum may only be indicated)

**3. Course of action if rents and royalties are not paid in time.**—Should the royalty and/or rent reserved and made payable by the lease be not paid within.....next after the date fixed in the lease for the payment of the same, the State Government may enter upon the premises and distrain all or any of the mineral or beneficiated products or moveable property therein and may order the sale of the property so distrained or of so much of it as will suffice for the satisfaction of the rent and/or royalties due, and all costs and expenses occasioned by the non-payment thereof.

#### PART VII.—THE COVENANTS OF THE LESSEE/LESSEES

**1. Lessees to pay rents, royalties, taxes, etc.**—The lessee/lessees shall pay the rents and royalties reserved by this lease at such times and in the manner provided in PART V & VI of these presents and shall also pay and discharge all taxes rates assessments and impositions whatsoever being in the nature of public demands which shall from time to time be charged assessed or imposed by the authority of the Central and State Governments upon or in respect of the premises and works of the lessee/lessees in common with other premises and works of a like nature except demands for land revenues.

\*Or as the State Government would deem suitable.

**2. To maintain and keep boundary marks in good order.**—The lessee/lessees shall at his own expense erect and at all times maintain and keep in repair boundary marks and pillars according to the demarcation to be shown in the plan annexed to this lease. Such marks and pillars shall be sufficiently clear of the shrubs and other obstructions as to allow easy identification.

**3. To commence operations within a year and work in a workmanlike manner.**—Unless the State Government for good cause permits otherwise, the lessee/lessees shall commence operations within one year from the date of execution of the lease and shall thereafter at all times during the continuance of this lease search for win work and develop the said minerals without voluntary intermission in a skilful and workman-like manner and as prescribed under clause 12 hereinafter without doing or permitting to be done any unnecessary or avoidable damage to the surface of the said lands or the crops buildings structures or other property thereon. For the purposes of this clause operations shall include the erection of machinery laying of a tramway or construction of a road in connection with the mine.

**4. To indemnify Government against all claims.**—The lessee/lessees shall make and pay such reasonable satisfaction and compensation as may be assessed by lawful authority in accordance with the law in force on the subject for all damage injury or disturbance which may be done by him in exercise of the powers granted by this lease and shall indemnify and keep indemnified fully and completely the State Government against all claims which may be made by any person or persons in respect of any such damage injury or disturbance and all costs and expenses in connection therewith.

**5. To secure and keep in good condition pits, shafts, etc.**—The lessee/lessees shall during the subsistence of this lease well and sufficiently secure and keep open with timber or other durable means all pits shafts and workings that may be made or used in the said lands and make and maintain sufficient fences to the satisfaction of the State Government round every such pit shaft or working whether the same is abandoned or not and shall during the same period keep all workings in the said lands except such as may be abandoned accessible free from water and foul air as far as possible.

**6. To strengthen and support the mines to necessary extent.**—The lessee/lessees shall strengthen and support to the satisfaction of the Railway Administration concerned or the State Government, as the case may be any part of the mine which in its opinion requires such strengthening or support for the safety of any railway reservoir canal road and any other public works or structures.

**7. To allow inspection of workings.**—The lessee/lessees shall allow any officer authorised by the Central Government or the State Government in that behalf to enter upon the premises including any building excavation or land comprised in the lease for the purpose of inspecting examining surveying and making plans thereof sampling and collecting any data and the lessee/lessees shall with proper person employed by the lessee/lessees and acquainted with the mines and work effectually assist such officers agents servants and workmen in conducting every such inspection and shall afford them all facilities information connected with the working of the mines which they may reasonably require and also shall and will conform to and observe all orders and regulations which the Central and State Governments as the result of such inspection or otherwise may from time to time see fit to impose.

**8. To report accidents.**—The lessee/lessees shall without delay send to the Deputy Commissioner/Collector a report of any accident causing death or serious bodily injury or serious injury to property or seriously affecting or endangering life or property which may occur in the course of the operations under this lease.

**9. To report discovery of other minerals.**—Whenever the lessee/lessees shall find in the said lands any mineral other than the said mineral/minerals the lessee/lessees shall immediately report such discovery in writing to the State Government with full particulars of the nature and position of each such find.

**10. To keep records and accounts regarding production and employees etc.**—The lessee/lessees shall at all times during the said term keep or cause to be kept at an office to be situated upon or near the said lands correct and intelligible books of accounts which shall contain accurate entries showing from time to time:—

- (1) Quantity and quality of the said mineral/minerals realised from the said lands.
- (2) Quantity of the various qualities of ores beneficiated or converted (for example coal converted into coke).
- (3) Quantities of the various quantities of the said mineral/minerals sold and exported separately.
- (4) Quantities of the various qualities of the said mineral/minerals otherwise disposed of and the manner and purpose of such disposal.

- (5) The prices and all other particulars of all sales of said mineral/minerals.
- (6) The number of persons employed in the mines or works or upon the said lands specifying nationality, qualifications and pay of the technical personnel.
- (7) Such other facts, particulars and circumstances as the Central or the State Governments may from time to time require and shall also furnish free of charge to such officers and at such times as the Central and State Governments may appoint true and correct abstracts of all or any such books of accounts and such information and returns to all or any of the matters aforesaid as the State Government may prescribe and shall at all reasonable times allow such officers as the Central Government or State Government shall in that behalf appoint to enter into and have free access to the said officer for the purpose of examining and inspecting the said books of accounts and to make copies thereof and make extracts therefrom.

**11. To maintain plans, etc.**—The lessee/lessees shall at all times during the said term maintain at the mine office correct intelligible up-to-date and complete plans and sections of the mines in the said lands. They shall show all the operations and workings and all the trenches, pits and drillings made by him/them in the course of operations carried on by him/them under the lease, faults and other disturbances encountered and geological data and all such plans and sections shall be amended and filled up by and from actual surveys to be made for that purpose at the end of twelve months or any period specified from time to time and the lessee/lessees shall furnish free of charge to the Central and State Governments true and correct copies of such plans and sections whenever these are required. Accurate records of all trenches, pits and drillings shall show:—

- (a) The subsoil and strata through which they pass.
- (b) Any mineral encountered.
- (c) Any other matter of interest and all data required by the Central and State Governments from time to time.

The lessee/lessees shall also allow any officer authorised by the Central or the State Government to inspect the same at all reasonable times.

**12. Act LIII of 1948.**—The lessee/lessees shall be bound by such rules as may be issued by the Government of India under Section 6 of the Mines and Minerals (Regulation and Development) Act, 1948 (Act LIII of 1948) and shall not carry on mining or other operations under the said lease in any way other than as prescribed under these rules.

**13. To provide weighing machine.**—The lessee/lessees shall provide and at all times keep at or near the pit head or each of the pit heads at which the said minerals shall be brought to bank a properly constructed and efficient weighing machine and shall weigh or or cause to be weighed thereon all the said minerals from time to time brought to bank sold exported and converted and also the converted products shall at the close of each day cause the total weights, ascertained by such means of the said minerals ores products raised sold exported and converted during the previous twenty-four hours to be entered in the aforesaid books of accounts. The lessee/lessees shall permit the State Government at all times during the said term to employ any person or persons to be present at the weighing of the said minerals as aforesaid and to keep accounts thereof and to check the accounts kept by the lessee/lessees. The lessee/lessees shall give.....days previous notice in writing to the Deputy Commissioner/Collector of every such measuring or weighing in order that he or some officer on his behalf may be present thereat.

**14. To allow test of weighing machine.**—The lessee/lessees shall allow any person or persons appointed in that behalf by the State Government at any time or times during the said term to examine and test every weighing machine to be provided and kept as aforesaid and the weights used therewith in order to ascertain whether the same respectively are correct and in good repair and order and if upon any such examination or testing any such weighing machine or weights shall be found incorrect or out of repair or order the State Government may require that the same be adjusted, repaired and put in order by and at the expense of the lessee/lessees and if such requisition be not complied with within fourteen days after the same shall have been made, the State Government may cause such weighing machine or weights to be adjusted, repaired and put in order and the expense of so doing shall be paid by the lessee/lessees to the State Government on demand and if upon any such examination or testing as aforesaid any error shall be discovered in any weighing machine or weights to the prejudice of the State Government such error shall be regarded as having existed for three calendar months previous to the discovery thereof or from the last occasion of so examining and testing the same weighing machine and weights in case such occasion shall be within such period of three months and the said rent and royalty shall be paid and accounted for accordingly.

**15. To pay compensation for injury to third parties.**—The lessee/lessees shall make and pay reasonable satisfaction and compensation for all damage injury or disturbance of person or property which may be done by or on the part of lessee/lessees in exercise of the liberties and power granted by these presents and shall at all times have harmless and keep indemnified the State Government from and against all suits claims and demands which may be brought or made by any person or persons in respect of any such damage injury or disturbance.

**16. Not to obstruct working of other minerals.**—The lessee/lessees will exercise the liberties and powers hereby granted in such a manner as to offer no unnecessary or reasonably avoidable obstruction or interruption to the development and working within the said lands of any minerals not included in this lease and shall at all times afford to the Central and State Governments and to the holders of prospecting licenses or mining leases in respect of any such minerals or any minerals within any land adjacent to the said lands as the case may be reasonable means of access and safe and convenient passage upon and across the said lands to such minerals for the purpose of getting working developing and carrying away the same provided that the lessee/lessees shall receive reasonable compensation for any damage or injury which he may sustain by reason or in consequence of the use of such passage by such lessees or holders of prospecting licenses.

**17. Liberty to assign or transfer his rights.**—The lessee/lessees may assign this lease or transfer any right title or interest hereunder to a person holding a certificate of approval with the previous written sanction of the State Government on payment of a fee of Rs. 100. The lessee/lessees shall not allow this lease or any right title or interest hereunder to be attached or sold in compliance with any decree or order of a Court or Revenue Officer. Provided also the assignment or transfer as aforesaid the instrument thereof shall be registered within three calendar months from the date of its completion.

**\*18. Not to be financed or controlled by a Trust Corporation firm or person.**—The lease shall not be controlled and the lessee/lessees shall not allow themselves to be controlled by any Trust Syndicate Corporation Firm or person except with the written consent of the Central Government. The lessee/lessees shall not enter into or make any arrangement compact or understanding whereby the lessee/lessees will or may be directly or indirectly financed by or under which the lessee's/lessees' operations or undertakings will or may be carried on directly or indirectly by or for the benefit of or subject to the control of any Trust Syndicate Corporation Firm or person unless with the written sanction given prior to such arrangement compact or understanding being entered into or made of the Central Government and any or every such arrangement compact or understanding as aforesaid (entered into or made with such sanction as aforesaid) shall only be entered into or made and shall always be subject to an express condition binding upon the other party or parties thereto that on the occasion of a state of emergency of which the President of India in his discretion shall be the sole judge it shall be terminable if so required in writing by the State Government and shall in the event of any such requisition being made by forthwith thereafter determined by the lessee/lessees accordingly.

**19. Lessee shall deposit any additional amount necessary other than security deposits.**—Whenever the security deposit of Rs. 1,000/500 or any part thereof or any further sum hereafter deposited with the State Government in replenishment thereof shall be forfeited or applied by the Central or State Governments pursuant to the power hereinafter declared in that behalf the lessee/lessees shall deposit with the State Government such further sum as may be sufficient with the unappropriated part thereof to bring the amount in deposit with the State Government up to the sum of Rs. 1,000/500.

**20. Delivery of workings in good order to State Government after determination of lease.**—The lessee/lessees shall at the expiration or sooner determination of the said term or any renewal thereof deliver up to the State Government all mines pits shafts inclines drifts levels waterways airways and other works now existing or hereafter to be sunk or made on or under the said lands except such as have been abandoned with the sanction of the State Government and in an ordinary and fair course of working all engines machinery plant buildings structures other works and conveniences which at the commencement of the said term were upon or under the said lands and all such machinery set up by the lessee/lessees below ground which cannot be removed without causing injury to the mines or works under the said lands (except such of the same as may with the sanction of the State Government have become disused) and all buildings and structures of bricks or stone erected by the lessee/lessees above ground level in good repair order and condition and fit in all respects for further working of the said mines and the said minerals.

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\*This clause can be inserted only with the approval of the Central Government.

**21. Right of pre-emption.**—(a) The State Government shall from time to time and at all times during the said term have the right (to be exercised by notice in writing to the lessee/lessees) of pre-emption of the said minerals (and all products thereof) lying in or upon the said lands hereby demised or elsewhere under the control of the lessee/lessees and the lessee/lessees shall with all possible expedition deliver all minerals or products of minerals purchased by the State Government under the power conferred by this provision in the quantities at the times in the manner and at the place specified in the notice exercising the said right.

(b) Should the right to pre-emption conferred by this present provision be exercised and a vessel chartered to carry the minerals or products thereof procured on behalf of the State Government or the Central Government be detained on demurrage at the port of loading the lessee/lessees shall pay the amount due for demurrage according to the terms of the charter party of such vessel unless the State Government shall be satisfied that the delay is due to causes beyond the control of the lessee/lessees.

(c) The price to be paid for all minerals or products of minerals taken in pre-emption by the State Government in exercise of the right hereby conferred shall be the fair market price prevailing at the time of pre-emption PROVIDED THAT in order to assist in arriving at the said fair market price the lessee/lessees shall if so required furnish to the State Government for the confidential information of the Government particulars of the quantities descriptions and prices of the said minerals or products thereof sold to other customers and of charters entered into for freight for carriage of the same and shall produce to such officer or officers as may be directed by the State Government original or authenticated copies of contracts and charter parties entered into for the sale or freightage of such minerals or products.

(d) In the event of the existence of a state of war or emergency (of which existence the President of India shall be the sole judge and a notification to this effect in the Gazette of India shall be conclusive proof) the State Government with the consent of the Central Government shall from time to time and at all times during the said term have the right (to be exercised by a notice in writing to the lessee/lessees) forthwith take possession and control of the works plant machinery and premises of the lessee/lessees on or in connection with the said lands or operations under this lease and during such possession or control the lessee/lessees shall conform and obey all directions given by or on behalf of the Central or State Government regarding the use or employment of such works plants premises and minerals PROVIDED THAT fair compensation which shall be determined in default of agreement by the State Government shall be paid to the lessee/lessees for all loss or damage sustained by him/them by reason or in consequence of the exercise of the powers conferred by this clause and PROVIDED ALSO that the exercise of such powers shall not determine the said term hereby granted or affect the terms and provisions of these presents further than may be necessary to give effect to the provision of this clause.

#### PART VIII—THE COVENANTS OF THE STATE GOVERNMENT

**1. Lessee may hold and enjoy rights quietly.**—The lessee/lessees paying the rents and royalties hereby reserved and observing and performing all the covenants and agreements herein contained and on the part of the lessee/lessees to be observed and performed shall and may quietly hold and enjoy the rights and premises hereby demised for and during the term hereby granted without any unlawful interruption from or by the State Government, or any person rightfully claiming under it.

**2. Acquisition of lands of third parties and compensation thereof.**—If in accordance with the provision of Clause 4 of Part VII of this Schedule the lessee/lessees shall offer to pay to an occupier of the surface of any part of the said lands compensation for any damage or injury which may arise from the proposed operations of the lessee/lessees and the said occupier shall refuse his consent to the exercise of the right and powers reserved to the State Government and demised to the lessee/lessees by these presents and the lessee/lessees shall report the matter to the State Government and shall deposit with it the amount offered as compensation and if the Central and State Governments are satisfied that the amount of compensation offered is fair and reasonable or if it is not so satisfied and the lessee shall have deposited with it such further amount as the State and Central Governments shall consider fair and reasonable the State Government shall order the occupier to allow the lessee/lessees to enter the land and to carry out such operations as may be necessary for the purpose of this lease. In assessing the amount of such compensation the State Government shall be guided by the principles of the Land Acquisition Act.

**3. To renew.**—If the lessee/lessees be desirous of taking a renewed lease of the premises hereby demised or of any part or parts of them for a further term of ..... years from the expiration of the term hereby granted and of such desire shall prior to the

expiration of the last mentioned term give to the State Government six calendar months previous notice in writing and shall pay the rents and royalties hereby reserved and shall observe and perform the several covenants and agreements herein contained and on the part of the lessee/lessees to be observed and performed upto the expiration of the term hereby granted the State Government will upon the request and at the expense of the lessee/lessees and upon his executing and delivering to the State Government if required a counterpart thereof execute and deliver to the lessee/lessees a renewed lease of the said premises for the further term of.....years at such rates and royalties and on such terms and subject to such covenants and agreements, including this present covenant to renew as shall be in accordance with the Mineral Concession Rules, 1949, applicable to .....(name of minerals) on the day next following the expiration of the term hereby granted.

**4. Liberty to determine, surrender or relinquish any part of the leased area.**—The lessee/lessees may at any time determine this lease by giving not less than 12 calendar months notice in writing to the State Government and upon the expiration of such notice provided that the lessee/lessees shall upon such expiration render and pay all rents royalties compensation for damages and other moneys which may then be due and payable under these presents to the lessor or any other person or persons and shall deliver up these presents to the State Government then this present lease and the said term and the liberties powers and privileges hereby granted shall absolutely cease and determine but without prejudice to any right or remedy of the lessor in respect of any breach of any of the covenants or agreements contained in these presents.

**5. Refund of security deposit.**—On such date as the State Government may elect within 12 calendar months after the determination of this lease or of any renewal thereof, the amount of the security deposit paid in respect of this lease and then remaining in deposit with the State Government and not required to be applied to any of the purposes mentioned in this lease shall be refunded to the lessee/lessees. No interest shall run on the security deposit.

#### PART IX—GENERAL PROVISIONS

**1.** In case of breach of any of the conditions of the lease other than mentioned in clauses 2 and 3 of this Part then the State Government may require the lessee/lessees or his/their transferees or assignees to pay penalty not exceeding an amount equivalent to twice the amount of the annual dead rent specified under clause 2 of Part V.

**2. Obstruction to inspection.**—In case the lessee/lessees or his/their transferees or assignees does/do not allow or obstruct entry or inspection, by the officers authorised by the Central or State Government, the State Government may cancel the lease and forfeit the whole or part of the deposit made under rule 36 of the Mineral Concession Rules, 1949.

**3.** In case the lessee/lessees or his/their transferees or assignees commit any breach of any of the conditions specified in clauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of rule 41(i) of the Mineral Concession Rules, 1949, then and in any such case the State Government shall give notice in writing to the lessee/lessees or his/their transferees or assignees as the case may be asking him/them to remedy the breach within 60 days from the date of the notice and if the breach is not remedied within such period the State Government may determine the lease provided that nothing herein contained shall debar the State Government from enforcing any other right or remedy that the State Government may have against the lessee/lessees or his/their transferees or assignees under any other provisions herein contained.

**4. To lay penalty in case of breach.**—In case of breaches of the covenants and agreements by the lessee/lessees on which the aforesaid notice has been given the State Government in lieu of giving notice may impose such penalty not exceeding twice the amount of annual dead rent specified in clause 2 of Part V.

**5. Failure to fulfil the terms of lease due to "Force Majeure."**—Failure on the part of the lessee/lessees to fulfil any of the terms and conditions of this lease shall not give the Central or State Government any claim against the lessee/lessees or be deemed a breach of this lease, in so far as such failure is considered by the said Government to arise from *force majeure*, and if through *force majeure* the fulfilment by the lessee/lessees of any of the terms and conditions of this lease be delayed, the period of such delay shall be added to the period fixed by this lease. In this clause the expression "Force Majeure" means act of God, war, insurrection, riot, civil commotion, strike, earthquake, tide, storm, tidal wave, flood, lightning, explosion, fire, earthquake and any other happening which the lessee/lessees could not reasonably prevent or control.

**6. Lessee to remove his properties on the expiry of lease.**—The lessee/lessees having first paid and discharged the rents and royalties payable by virtue of these presents may



at the expiration or sooner determination of the said term or within six calendar months thereafter (unless the lease shall be determined under clauses 1 and 2 of this Part and in that case at any time not less than three calendar months nor more than six calendar months after such determination) take down and remove for his own benefit all or any engines machinery plant buildings structures tramways railways and other works erections and conveniences which may have been erected set up or placed by the lessee/lessees in or upon the said lands and which the lessee/lessees is/are not bound to deliver to the State Government under clause 14 of Part VII of this Schedule and which the State Government shall not desire to purchase.

**7. Forfeiture of property left more than six months after determination of lease.—**

If at the end of six calendar months after the expiration or sooner determination of the said term or after the date from which any surrender by the lessee/lessees of a part or parts of the said lands under the provision contained in Clause 4 of Part VIII of this Schedule become effective there shall remain in or upon the said land or the surrendered part or parts thereof as the case may be any engines machinery plant buildings structures tramways railways and other work erections and conveniences or other property which are not required by the lessee/lessees in connection with his/their operations in those parts of the said lands which he/they has/have not surrendered or in any other lands held by him/them under prospecting licence or mining lease the same shall if not removed by the lessee/lessees within one calendar month after notice in writing requiring their removal has been given to the lessee/lessees by the State Government be deemed to become the property of the State Government and may be sold or disposed of in such manner as the State Government shall deem fit without liability to pay any compensation or to account to the lessee/lessees in respect thereof.

**8. Notices.**—Every notice by these presents required to be given to the lessee/lessees shall be given in writing to such person resident on the said lands as the lessee/lessees may appoint for the purpose of receiving such notices and if there shall have been no such appointment then every such notice shall be sent to the lessee/lessees by registered post addressed to the lessee/lessees at the address recorded in this lease or at such other address in India as the lessee/lessees may from time to time in writing to the State Government designate for the receipt of notices and every such service shall be deemed to be proper and valid service upon the lessee/lessees and shall not be questioned or challenged by him.

IN WITNESS WHEREOF these presents have been executed in the manner hereunder appearing the day and year first above written.

Signed by  
for and on behalf of  
the Governor/Rajpramukh of  
in the presence of

Signed by  
for and on behalf of  
in the presence of

**MODEL FORM**

**GOVERNMENT OF.....**

**Application for Certificate of Approval**

*Dated*                      *day of*                      19 .

To  
Through  
Sir,

I,..... (for and on behalf of.....) have the honour  
(Name of Co. Syndicate or Firm)

to request that a Certificate of Approval under the Mineral Concession Rules, 1949, published under the Government of India, Ministry of Works, Mines and Power Notification No. M-II-155-(24)-2 dated 18-10-1949 be granted to enable me to acquire Prospecting Licenses and Mining Leases under the said Rules.

2. The fee of Rs. 100/- payable for the grant of the Certificate has been paid in the manner prescribed by the State Government in their Notification No.....dated the

(To be completed by the State Government)

3. The required particulars are given below.

*Particulars*

1. Name of the individual, firm or company.
2. Nationality of the individual or place of registration or incorporation of the firm or company.
3. Profession of the individual, or nature of business of the firm or company.
4. Address of the individual, firm or company.
5. Nature of Certificate of Approval required (Mention here general or restricted and if restricted for what minerals).
6. Details of technical qualifications and mining experience of the individual, firm or company, if any.
7. (i) The amount of capital that the individual, firm or company can command to carry on a well planned mining operations.  
(ii) Bank reference, if any.
8. The amount of income-tax or land revenue paid annually, if any.
9. Does the applicant hold a Certificate of Approval, Prospecting License or Mining Lease in any other State? If so, give number and date of such certificates, licenses or leases held and when they are due to expire.
10. Special reasons if any as to why the applicant wants to undertake mining industry in the State.
11. Any other particulars which the applicant wishes to furnish.
12. Manner and details of payment of the fee prescribed in Rule 9(2) of the Mineral Concession Rules, 1949.

Yours faithfully,

Place..

*Signature and designation of the applicant.*

Date..

## MODEL FORM

## GOVERNMENT OF..

## Application for Prospecting License

Dated            day of            19   .

To  
Through  
Sir,

I/We have the honour to request that a Prospecting License under the Mineral Concession Rules, 1949, published under the Government of India, Ministry of Works, Mines and Power Notification No. M-II-155(24)-2 dated 18th October 1949, be granted to me/us.

2. A sum of Rs.....being the fee in respect of this application at the rate of Rs. 50/- for the first sq. mile and Rs. 10/- for each additional sq. mile or part thereof payable under rule 15 of the said Rules, has been deposited in the manner prescribed by the State Government in their Notification No.....dated the.....  
(To be completed by the State Government).

Received at.....(time) on.....(date).

3. The required particulars are given below.

*Particulars*

1. Name of individual/s, firm or company applying.
2. Nationality of individual/s or place of registration or incorporation of firm or company.
3. Profession of individual/s or nature of business of firm or company.
4. Address of the individuals, firm or company.
5. Whether the application is for a fresh concession or for renewal of a concession previously granted.
6. No. and date of the notification of the grant or renewal of the Certificate of Approval (copy attached).
7. Mineral or minerals which the applicant intends to prospect.
8. Period for which the Prospecting License is required.
9. Extent of the area the applicant wants to prospect.
10. Details of area, Khasra Nos. of the fields and their areas.  
Village/villages/range or sub range/Taluq/District.
11. Particulars of map or plan of the area attached.

12. No. and date of Income-tax Clearance Certificate from the Income-tax Officer (copy attached).
13. Any other particulars which the applicant wishes to furnish.
14. If the applicant intends to supervise the works, his previous experience of prospecting should be explained; if he intends to appoint a manager, the name of such manager, his qualification, nature and extent of his previous experience should be specified.
15. Manner and details of payment of the fee prescribed in rule 15 of the Mineral Concession Rules, 1949.

I/We do hereby declare that particulars furnished above are correct and am/are ready to furnish any other details that may be required and the security deposit before the grant of license.

Place:

Yours faithfully,

Date:

*Signature and designation of the applicant.*

### MODEL FORM

GOVERNMENT OF.....

#### Application for Mining Lease

*Dated*                      *day of*                      19 .

To  
Through  
Sir,

I/We have the honour to apply for the grant of Mining Lease under the Mineral Concession Rules, 1949, published by the Government of India, Ministry of Works, Mines and Power Notification No. M-II-155(24)-2 dated 18th October 1949.

2. A sum of Rs.....and Rs.....respectively being the fees in respect of this application and the preliminary expenses payable under rules 28 and 29 of the said rules have been deposited in the manner prescribed by the State Government in their Notification No.....dated the.....(To be completed by the State Government).

Received at.....(time) on.....(date).

3. The required particulars are given below.

#### *Particulars*

1. Name of the applicant individual/s, firm or company.
2. Nationality of the individual/s or place of registration or incorporation of firm or company.
3. Profession of individual/s or nature of business of firm or company and place of business.
4. Address of the individual/s, firm or company.
5. Whether the application is for a fresh concession or for renewal of a concession previously granted.
6. No. and date of the notification of the grant or renewal of the Certificate of Approval (copy attached).
7. Mineral or minerals which the applicant intends to mine
8. Period for which the Mining Lease is required.
9. Details of area in respect of which lease is required.

District	Taluk.	Village	Khasra No	Area
			Areas	Guntas
				Total

10. Particulars of map or plan covering the area mentioned at (9) above attached
11. Brief description of the area.
12. Do you hold a Prospecting License over the area mentioned as (9) above? If so give its No. and date of grant and the date when it is due to expire.
13. Area and minerals within the jurisdiction )  
of the State Government for which the Mineral. Area. Taluk. District.  
applicant or any person joint in interest  
with him

- (a) Already holds under Mining Lease(s)
- (b) has already applied for but not granted; or
- (c) being applied for simultaneously.
- 14. Nature of joint interest, if any under (13) above.
- 15. Approximate quantity of mineral expected to be raised during the first year.
- 16. Means by which the mineral is to be raised, i.e., by hand labour or mechanical or electrical power.
- 17. Manner in which the mineral raised is to be utilised:—
  - (a) for manufacture in India.
  - (b) for exports to foreign countries.
 In the former case the industries in connection with which it is required, should be specified. In the latter case, the countries to which the mineral will be exported and whether the mineral is to be exported after processing or in raw form should be stated.
- 18. If the applicant intends to supervise the works his previous experience of mining should be explained; if he intends to appoint a manager, the name of such manager, his qualifications, and the nature and extent of his previous experience should be specified.
- 19. Any other particulars which the applicant wishes to furnish.
- 20. Manner and details of payment of the fee prescribed in rule 28 of the Mineral Concession Rules, 1949.
- \*21. Manner and details of payment of the deposit prescribed in rule 29 of the Mineral Concession Rules, 1949.
- 22. No. and date of Income-tax Clearance Certificate from the Income-tax Officer (copy attached).

I/We do hereby declare that particulars furnished above are correct and am/are ready to furnish any other details, including accurate plans and security deposit, etc., as required by you before the grant of the lease.

Yours faithfully,

Place:

Date:

*Signature and designation of the applicant.*

#### MODEL FORM OF APPLICATION FOR REVIEW UNDER RULE 57 OF THE MINERAL CONCESSION RULES, 1949

1. Name and address of individual/s, firm or company applying.
2. Profession of individual/s or nature of business.
3. Whether the review application is against the order of the State Government—
  - (i) Refusing to grant a certificate of approval, prospecting license or mining lease.
  - (i-A) refusing to renew a certificate of approval.
  - (ii) cancelling a prospecting license or mining lease.
  - (iii) refusing to permit transfer of a prospecting license under rule 23 (iv) or a mining lease under rule 37.
4. No. and date of the order of the State Govt. against which the review application is filed (copy attached).
5. No. and date of the Notification of the grant of renewal of the certificate of approval (copy attached).
6. Mineral or minerals for which the review application is filed.
7. Details of the area in respect of which the revision application is filed. District, Taluk, Village, Khasra No. Total area claimed. (A map or plan of the area(s) to be attached).
8. Whether application fee of Rs. 100/- has been deposited in the manner prescribed in Rule 58 of the Mineral Concession Rules, 1949. If so, a copy of the treasury receipt should be attached.
9. Whether the review application has been filed within two months of the date of the order passed by the State Government.
10. If not, the reasons for not presenting it within the prescribed limit as provided in Rule 57(2) of the Mineral Concession Rules, 1949.
11. Grounds of review.

Yours faithfully,

Place.....

Date .....

*Signature and designation of the applicant.*

\*Where the State Governments have not generally determined the amount to be paid under rule 29 of the Mineral Concession Rules, the maximum amount is to be paid.

**MINERALS CONSERVATION AND DEVELOPMENT RULES, 1955****Arrangement of Paragraphs****CHAPTER I—PRELIMINARY****CHAPTER II—NOTICES AND RETURNS****CHAPTER III—SINKING SHAFTS AND NEW BORE-HOLES****CHAPTER IV—ISSUING DIRECTIONS AND EXAMINATION OF MINERALS****CHAPTER V—POWER OF REVISION****CHAPTER VI—OFFENCES AND PENALTIES****SCHEDULE AND FORMS****MINERALS CONSERVATION AND DEVELOPMENT RULES, 1955<sup>1</sup>**

In exercise of the powers conferred by section 6 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government is pleased to make the following rules for the conservation and development of minerals, namely:

**THE MINERALS CONSERVATION AND DEVELOPMENT RULES, 1955****CHAPTER I—PRELIMINARY**

1. (a) The rules may be called the Minerals Conservation and Development Rules, 1955.
- (b) They shall come into force on the first day of April, 1955.
2. In these rules, unless the context otherwise requires—
  - (a) "the Act" means the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948);
  - (b) "agent", when used in relation to a mine, means any person, whether appointed as such or not, who acts as the representative of the owner in respect of the management of the mine or any part thereof;
  - (c) "boring" or "drilling" means the penetration of alluvial material, rocks or formations by holes of relatively small diameter for studying the structure of mineral bearing formation and for drawing samples therefrom;
  - (d) "development" means the driving of an opening to or in a proved ore body or seam, or removing over-burden of unproductive or waste materials as preparatory, to mining or stoping;
  - (e) "Director" means the Director of the Indian Bureau of Mines;
  - (f) "Form" means a form set out in the Schedule to these rules;
  - (g) "manager", when used in relation to a mine, means any person appointed by the owner or agent for the purposes of controlling, managing and directing the operations of the mine or of any part thereof, and includes the owner or the agent if he appoints himself to be such manager under section 17 of the Mines Act, 1952 (XXXV of 1952);
  - (h) "mining" means the process of extracting ores or minerals from mineral deposits by opencast or underground methods or boring; and includes ore-dressing, concentration, beneficiation and processing operations;
  - (i) "owner", when used in relation to a mine means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried by a liquidator or receiver, such liquidator or receiver, but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine but any contractor for the working of a mine or any part thereof shall be subject to these rules in like manner as if he were an owner, but not so as to exempt the owner from any liability;

<sup>1</sup> These Rules were published under the Ministry of Natural Resources and Scientific Research Notification No. S.R.O. 608 dated the 15th March 1955 as amended by the Corrigendum Notification No. S.R.O. 2018 dated the 8th September, 1955.

- (j) "prospecting" means operations to gain knowledge of the shape, size, extent and quality of a mineral deposit;
  - (k) "section" means a section of the Act;
  - (l) "shaft" means a vertical or inclined opening giving access to and serving various levels below ground of a mine; and
  - (m) "stope" means any underground excavation, other than development working made for the purpose of winning ores or minerals.
3. Nothing in these rules shall apply to:
- (i) petroleum and natural gas,
  - (ii) coal,
  - (iii) minor minerals, and
  - (iv) minerals declared as prescribed substances for the purposes of the Atomic Energy Act, 1948 (XXIX of 1948).

*Explanation.*—The expression "minor mineral" has the meaning assigned to it in the Mineral Concession Rules, 1949.

#### CHAPTER II—NOTICES AND RETURNS

4. Every holder of a prospecting licence shall send to the Director a notice in Form A of the commencement of prospecting operations within thirty days from the date of such commencement.

5. Every holder of a prospecting license shall submit to the Director returns in triplicate in Form B, so as to reach him not later than the 31st day of January of every year, following the year to which the returns relate:

Provided that where prospecting operations are abandoned, such returns shall be submitted to the Director in the Form aforesaid within a period of thirty days from the date of such abandonment.

6. Every owner, agent or manager of a mine shall send to the Director a notice in Form C of the opening of the mine within thirty days from the date of the commencement of mining operation in such mine.

7. Every owner, agent or manager of a mine shall send a notice to the Director of any change in the name of the mine within thirty days of such change.

8. Every holder of a prospecting licence or a mining lease who transfers or assigns his license or lease or any right, title or interest thereunder to another person shall, within thirty days of the date of such transfer or assignment send a notice in Form D to the Director.

9. Every owner, agent or manager of a mine who intends to abandon the mine shall send to the Director a notice at least thirty days prior to the intended date of such abandonment:

Provided that when such abandonment takes place on the occurrence of a natural phenomenon beyond the control of such owner, agent or manager, the notice required under this rule shall be submitted to the Director within a period of fifteen days of such occurrence.

10. Every owner, agent or manager of a mine, when the mine is abandoned or work thereon is discontinued for more than sixty days shall send to the Director a notice in triplicate in Form E, so as to reach him within fifteen days from the date of such abandonment, or ninety days from the date of such discontinuance.

11. Where any mine or part of a mine is abandoned, or work thereon is discontinued for a period exceeding one year, the owner, agent or manager of the mine shall, within three months of the date of such abandonment or within fifteen months of the date of such discontinuance of the mining operations, send to the Director one copy each of the plans and sections setting forth as accurately as possible the work done on the mine upto the time of such abandonment or discontinuance, as the case may be:

Provided that if a change of ownership takes place at any time before the expiry of three months after the date of such abandonment or before the expiry of fifteen months after the date of such discontinuance, one copy each of the said plans and sections shall be submitted to the Director by the owner, agent or manager showing as accurately as possible the work done on the mine at the time of abandonment or discontinuance, as the case may be, within thirty days of the date of such change of ownership.

12. Every owner, agent or manager of a mine shall, when a mine is reopened after abandonment or discontinuance, send to the Director a notice in triplicate in Form F within thirty days from the date of such re-opening.

13. Every owner, agent or manager of a mine shall send to the Director a notice in Form G intimating his intention to commence the stoping of any vein, lode, reef or mineral deposit, so as to reach the Director at least thirty days prior to the date of the commencement of such operations.

14. Every owner, agent or manager of a mine shall submit to the Director the under-mentioned returns in triplicate in the Forms and within the time specified in respect of every such return in the following clauses namely:—

- (a) an annual return in Form 'H' in respect of all minerals, other than manganese, chromite, mica, iron ore, ilmenite, copper ore, lead and zinc ores, gold and precious metals, precious and semi-precious stones, not later than the first day of March of every year following the year to which the return relates;
- (b) a quarterly return:—
  - (i) in Form I. in respect of manganese ore,
  - (ii) in Form J in respect of chromite,
  - (iii) in Form K in respect of mica,
  - (iv) in Form L in respect of iron ore,
  - (v) in Form M in respect of ilmenite,
  - (vi) in Form N in respect of copper ore,
  - (vii) in Form O in respect of lead and zinc ores,
  - (viii) in Form P in respect of gold and precious metals,
  - (ix) in Form Q in respect of precious and semi-precious stones, and
 within thirty days of the expiry of every quarter to which the return relates.

<sup>2</sup>[A copy of all the returns shall also be sent simultaneously to the State Government concerned.]

15. Every owner of a mine shall, when any appointment is made of an agent or manager, or when any change occurs in the address of such agent or manager, send a notice of such appointment or change of address, and the date thereof, to the Director within thirty days of the date of such appointment or change of address.

### CHAPTER III—SINKING SHAFTS AND NEW BORE-HOLES

16. Every owner, agent or manager of a mine shall send a notice in triplicate in Form R to the Director, within fifteen days after the commencement of the following mining operations, that is to say when it is intended,—

- (a) to sink a trial shaft or bore-hole to a depth exceeding 50 feet from the surface; or
- (b) to extend an existing shaft or bore-hole to a depth exceeding 50 feet; or
- (c) to sink a new shaft or bore-hole commencing from underground working.

17. Every owner, agent or manager of a mine shall keep a record in Form S of all shafts or bore-holes exceeding 50 feet in depth and shall retain all records and samples of the strata passed through for a period of not less than six months after the completion of the work or abandonment thereof.

18. Every owner, agent or manager of a mine shall preserve intact all cores and specimens of different types of rocks and minerals obtained during drilling or sinking operations, and arrange them to be laid out in serial order with identification marks, showing the progressive depths at which they were obtained. Such specimens shall not be broken except for the purpose of analysis, in which case, representative samples of the specimens so broken will be preserved.

19. When the ownership of a prospecting license or a mining lease is transferred at any time during the period when the operation of sinking a shaft or bore-hole is in progress or within six months after the completion of sinking, drilling or boring operations, all records, specimens, cores and fragment of rocks, obtained during sinking, shall be transferred by the transferor to the transferee and thereupon it shall be the duty of the transferee, his agent or manager to comply with all the requirements of rules 16, 17 and 18.

20. For the purpose of carrying out of prospecting and mining operations in accordance with the approved practice, every holder of a prospecting license or a mining lease shall employ a whole-time or a part-time geologist or mining engineers possessing such qualifications as the Central Government may, by general or a special order, specify.

<sup>2</sup> Inserted by the Ministry of National Resources and Scientific Research Notification No. S.R.O. 1742 dated the 4th August, 1955.

CHAPTER IV—ISSUING DIRECTIONS AND EXAMINATION OF MINERALS

21. Every owner, agent or manager of a mine shall comply with such directions, being directions for the purposes of providing for the conservation and systematic development of minerals, as the Director may, from time to time, by general or special order make with the prior approval of the Central Government <sup>3</sup>[in consultation with the State Governments concerned.]

22. Every owner, agent or manager of a mine shall, on a requisition made in this behalf by the Director, furnish to him within such time as may be specified in the requisition, a statement showing the broad features of the scheme of development of the mine, together with the requisite plan and sections.

23. The Director, or any person authorised by him in this behalf, may examine any mineral at any mine or new bore-holes from which such minerals are extracted and draw samples therefrom for the purpose of these rules.

24. Where an order has been passed by the Central Government prohibiting the grant of a prospecting licence or a mining lease in respect of any mineral or any area under rules made under section 5, the Central Government may, by order, determine the manner in which, and the agency by which, such mineral or area, as the case may be, shall be developed and worked, and thereupon the State Government shall act accordingly.

CHAPTER V—POWERS OF REVISION

25. (1) Any person aggrieved by any direction made by the Director under rule 21 may, within thirty days of the date of issue of such direction, make an application to the Central Government for revision of such direction and the Central Government on receipt of every such application shall refer it for a report to a Board consisting of not more than two officials and an equal number of persons representing the owners, agents or managers of mines and one chairman, all to be appointed by the Central Government. Provided that the Central Government may entertain an application for revision after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) The Central Government may, on receiving the report from the Board, confirm, vary or reverse the direction made by the Director or may pass such other order as it deems fit, and thereafter the direction made by the Director under rule 21 shall, where necessary, be deemed to have been amended accordingly.

CHAPTER VI—OFFENCES AND PENALTIES

26. If any owner, agent or manager refuses or without lawful excuse (the burden of proving which shall lie upon such owner, agent or manager, as the case may be), neglects:

- (a) to furnish in due time any of the notices or returns mentioned in rules 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 19, or where he furnishes particulars in such notices or returns which are false and which he either knows or believes to be false or does not believe to be true, or
- (b) to furnish in due time a scheme of development as required by rule 22, or
- (c) to maintain records and preserve cores and samples as required by rules 17, 18 and 19, or
- (d) to comply with any directions issued by the Director under rule 21, or
- (e) to allow the Director or any person authorised by him in this behalf to examine any mineral, or to draw samples therefrom as provided in rule 23, he shall be punishable with the imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

27. No Court shall take cognizance of any offence punishable under these rules otherwise than on a complaint in writing made by an officer authorised in this behalf by the Central Government.

<sup>3</sup> Inserted by Notification No. S.R.O. No. 1742 dated the 4th August, 1955.



**SCHEDULE—[See Rule 2 (f).]****FORM A—(See Rule 4)**

Notice of the commencement of Prospecting Operations in respect of.....  
(name of mineral or minerals).

**IMPORTANT**  
Notice in this Form shall be sent within 30 days  
of commencement of prospecting operations.

To  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name of the Licensee.
2. Address of the Licensee.
3. Area under licence.
4. Location of the area:—
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest Railway Station or steamer ghat and the distance therefrom.
  - (vii) Means of conveyance from the Railway Station or steamer ghat to the prospect.
  - (viii) Nearest Dak Bungalow or rest house.
5. Date of grant of license.
6. Period of License.
7. Nature of Prospecting Operations conducted or proposed to be conducted.
  - (a) Nature of Drilling.
  - (b) No. and sizes of trial pits or trenches.
 (A brief description of the mineral outcrops may be furnished, if any.)
8. Name and qualifications of the Geologist or Mining Engineer in charge of operations.

Signature.....  
(Full name of the signatory)

Designation.....

Address.....

Date of Despatch.....

**FORM B—(See Rule 5)**

Progress report of prospecting work in respect of.....  
(the name of the mineral/s) for the calendar year.....

**IMPORTANT**  
This Form must be returned duly filled in  
within 31st January each year or within  
30 days after the abandonment of prospecting  
operations.

Submitted to:—  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi

1. Name of the Licensee.
2. Nature of the firm (\*).
3. Address of the firm.
4. Area under license.....(sq. miles).
5. Location:
  - (i) Village.
  - (ii) Taluq.

\*(1) Under item 2 state clearly whether the firm is private limited or public limited, giving the place of registration or incorporation.

- (iii) District.
- (iv) State.
- 6. Date of grant of license.
- 7. Period of license.
- 8. Prospecting work done:
  - (a) Pitting.....feet.
  - (b) Trenching.....feet.
  - (c) Drilling.....feet.
- 9. Nature and structure (\*) of the ore body.
- 10. Quantity of mineral extracted.
- 11. Analysis of the ore or minerals.
- 12. If abandoned:
  - (i) Date of abandonment.
  - (ii) Reasons for abandonment.

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Address.....  
 Date of Despatch.....

\*Instructions:

#### FORM C—(See Rule 6)

Notice of opening of a mine in respect of.....(mine or minerals).

#### IMPORTANT

Notice in this Form shall be sent within 30 days of the commencement of mining operation.

To  
 The Director,  
 Indian Bureau of Mines,  
 Ministry of Natural Resources and  
 Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name of mine and date of opening/reopening.
2. Situation of mine:
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest Railway Station or Steamer ghat and distance therefrom.
  - (vii) Means of conveyance from Railway Station or Steamer ghat to mine.
  - (viii) Nearest Dak Bungalow or rest house.
3. Name and address of the Lessee.
4. Date of grant and period of lease (state if the lease is granted under rule 61 of the Mineral Concession Rules, 1949).
5. Area of the lease.
6. Name and address of previous owner if any and the date of abandonment.
7. Name and address of the Agent and date of appointment.
8. Name and qualifications of the Geologist or Mining Engineer—in charge of operations.
9. Name, address and qualifications of the Manager and the date of appointment.
10. (a) No. and sizes of existing workings and their extent.  
 (b) Total footage of bore-holes if any.
11. Nature of the mineral deposit worked.

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Address.....  
 Date of Despatch.....

\*(2) Under item 9 give a brief description of the geological formations and describe the behaviour of the ore body.

## INDIAN LABOUR CODE

## FORM D—(See Rule 8)

## Notice of Transfer or Assignment.

## IMPORTANT

Notice in this Form shall be sent within 30 days of the transfer or assignment.

To  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name of mine, concession or lease.
2. Situation:
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest Railway Station or Steamer ghat and distance therefrom.
  - (vii) Means of conveyance from Railway Station or Steamer ghat to mine.
  - (viii) Nearest Dak Bungalow or rest house.
3. Name and address of the Lessee.
4. Date of grant and period of lease.
5. Area of the lease.
6. Nature of Transfer or Assignment.
7. Name and address of the Transferee or Assignee.

Signature.....  
(Full name of the signatory)

Designation.....

Address .....

Date of Despatch.....

## FORM E—(See Rule 10)

Notice of the abandonment or discontinuance of mining operation in respect of  
..... (Name of minerals) for.....of mine.

## IMPORTANT

Notice in this Form shall be sent within fifteen days after the date of the abandonment or within ninety days after the date of discontinuance of mining operations.

To  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name of mine and the date of opening or re-opening.
2. Situation of mine:
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest Railway Station or Steamer ghat and distance therefrom.
3. Name and address of the Lessee.
4. Date of grant and period of lease.
5. Area of the lease.
6. Name and address of the Agent.
7. Name, address and qualifications of the Manager.

**If abandoned:**

- (a) Date of abandonment.
- (b) Full description of the existing workshops accompanied by plans and sections showing all the underground and/or surface workings.
- (c) Nature and disposition of the ore-body/mineral deposit in relation to existing workings.
- (d) Reasons for abandonment (give the fullest details).

**If discontinued,**

- (a) Date of discontinuance.
- (b) Reasons for discontinuance.
- (c) Probable date of re-opening.

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Address.....  
 Date of Despatch.....

**FORM F—(See Rule 12)**

Notice of re-opening of a mine in respect of.....

(Name of mine)

for..... (Name of mineral).

**IMPORTANT**

Notice in this Form shall be sent within 30 days |  
 from the date of re-opening of a mine.

To  
 The Director,  
 Indian Bureau of Mines,  
 Ministry of Natural Resources and  
 Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name of mine and date of first opening.
2. Situation of mine:
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest Railway Station or Steamer ghat and distance therefrom.
3. Name and address of the Lessee.
4. Date of grant of the lease.
5. Area of the lease.
6. Name and address of the previous owner if any and the date on which he abandoned.
7. Name and address of the Agent.
8. Name, address and qualifications of the Manager.
9. Date on which it was abandoned or discontinued prior to re-opening.
10. Date of re-opening.
11. No. and sizes of existing workings and their extent.

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Address.....  
 Date of Despatch.....

**FORM G—(See Rule 13)**

Notice of commencement of stoping in respect of.....

(mineral or minerals).

**IMPORTANT**

Notice in this Form shall be sent 30 days before the commencement of stoping operations.

To  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name of mine.
2. Situation of mine:
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest Railway Station or Steamer ghat and distance therefrom.
  - (vii) Means of conveyance from Railway Station or Steamer ghat to mine.
  - (viii) Nearest Dak Bungalow or rest house.
3. Name and address of the owner.
4. Name and address of agent.
5. Name, address and qualifications of manager.
6. Name and qualifications of the geologist or mining engineer in charge of operations.
7. Date of grant and period of lease.
8. Area of the lease.
9. No. of shafts and their depth.
10. No. of levels and their extent.
11. Total footage of underground development.
12. Thickness of mineral vein or ore body developed.
13. No. and sizes of blocks of ore body ready for stoping and their levels.
14. Approximate tonnage of ore blocked out.
15. Level or levels at which stoping is contemplated.
16. Method of stoping contemplated.
17. The rate of progress in stoping contemplated.
18. Date on which it is proposed to commence stoping.

Signature.....

(Full name of the signatory)

Designation.....

Address.....

Date of Despatch.....

**FORM H—[See Rule 14 (a)]****IMPORTANT**

This Form must be returned before the 1st March, each year duly filled in.

for all minerals except manganese ore, ilmenite, chromite, mica, gold and precious metals, copper, iron ore, lead and zinc and precious and semi-precious stones.

Annual Return in respect of.....  
(for the year 19 ).

Submitted to:

The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

1. Name of the Mine.....
2. Location:
  1. Village.....Post Office.....
  2. District.....Taluk or Thana..
  3. Division.....State.....
3. Name and address of the individual, Firm or Company.

## PRODUCTION

1. Stocks of Ore/mineral at the beginning of the year.....
2. Ore/mineral raised during the year.....
  - (a) Underground workings.....
  - (b) Opencast workings.....
 Total of 1 and 2:.....
3. Average grade/analysis of the mineral.....
4. Ore/mineral treated.....
  - Concentrates obtained (gradewise).....
  - Balance left.....
5. Amount disposed of during the year.....
6. Closing stocks at the end of the year.....
7. Values per ton:
  - (a) Pit-head.....Rupees
  - (b) f.o.r. (State Railway Station).....Rupees
  - (c) f.o.b. (State Port)..... value per ton

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Address.....  
 Date of Despatch.....

## FORM I—[See Rule 14(b)]

Quarterly Return in respect of MANGANESE ORE for the quarter ending.....19 .

## IMPORTANT

This Form must be returned within  
 30 days after the expiry of each  
 quarter, duly filled in.

Submitted to:  
 The Director,  
 Indian Bureau of Mines,  
 Ministry of Natural Resources  
 and Scientific Research, New Delhi.

1. Name of the mine.....
2. Location:
  1. Village..... Post Office.....
  2. District..... Taluk or Thana.....
  3. Division.....State.....
3. Name and address of the individual, Firm or Company operating

*Mining:*

- (i) Stocks of Ore at the beginning of the quarter.....Tons
- (ii) Ore raised during the quarter:
  - (a) Underground workings.....Tons
  - (b) Opencast workings.....Tons
 Total of (i) and (ii).....Tons
- (iii) Ore treated or despatched.....Tons
- (iv) Stock of Ore at the end of the quarter.....Tons

*Grades of Ores:*

- (i) High Grade ore above 45% Mn. ....Tons Mn. content.....%
  - (a) Battery Grade .....Tons Mn. content.....%
  - (b) Other Grades .....Tons Mn. content.....%
- (ii) Low Grade ore below 45% Mn. ....Tons Mn. content.....%
- (iii) Value for Ton:
  - (a) Pit head .....Rupees
  - (b) f.o.r. (State Rly. Station) .....Rupees
  - (c) f.o.b. (State Port) .....Rupees

*Ore Dressing:*

- (i) Ore treated.....Tons. Mn. content.....%
- (ii) Grade of ore treated..... Mn. content.....%
- (iii) Ore recovered.....Tons. Mn. content.....%
- (iv) Grade of ore recovered..... Mn. content.....%

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Date of Despatch.....

## INDIAN LABOUR CODE

## FORM J—[See Rule 14(b)]

Quarterly return in respect of CHROMITE for the quarter ending.....19 .

**IMPORTANT**

This Form must be returned within  
30 days after the expiry of each  
quarter, duly filled in.

Submitted to:  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources  
and Scientific Research, New Delhi

1. Name of the mine.....
- (2) Location:
  1. Village..... Post Office.....
  2. District..... Taluk or Thana.....
  3. Division..... State.....
- (3) Name and address of the individual, Firm or Company operating.

**Mining:**

- (i) Stocks at the beginning of the quarter.....Tons.
- (ii) Ore raised during the quarter:
  - (a) Underground working.....Tons.
  - (b) Opencast working.....Tons.
  - Total of (i) and (ii).....Tons.
- (iii) Ore treated or despatched.....Tons.
- (iv) Stocks of ore at the end of the quarter.....Tons.

**Grades of Ore:**

- (i) High grade ore.....Cr<sub>2</sub> O<sub>3</sub> content.....% Cr: Fe. ratio.....
- (ii) Low grade ore.....Cr<sub>2</sub> O<sub>3</sub> content.....% Cr: Fe. ratio.....
- (iii) Value per ton:
  - (a) Pit head.....Rupees
  - (b) f.o.r. (State Rly. Stn.).....Rupees
  - (c) f.o.b. (State port).....Rupees

**Ore Dressing:**

- (i) Ore treated.....Tons.
- (ii) Grade of Ore treated.....Cr<sub>2</sub> O<sub>3</sub> content.....%
- (iii) Ore recovered.....Tons.
- (iv) Grade of ore recovered.....Cr<sub>2</sub> O<sub>3</sub> content.....%

Signature.....  
(Full name of the Signatory)  
Designation.....  
Date of Despatch.....

## FORM K—[See Rule 14(b)]

Quarterly return in respect of MICA for the quarter ending .....195 .

**IMPORTANT**

This Form must be returned within  
30 days after the expiry of each  
quarter, duly filled in.

Submitted to:  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources  
and Scientific Research, New Delhi.

1. Name of the mine.....
- (2) Location:
  1. Village..... Post Office.....
  2. District..... Taluk or Thana.....
  3. Division..... State.....
- (3) Name and address of the individual, Firm or Company operating.
- (4) (i) Proprietor's Certificate No.....
- (ii) Miner's Licence No.....
- (iii) Dealer's Licence No.....
- (iv) Proprietor's Permit No.....

## CRUDE, S.D.B. AND CHILLAS

Serial No.	Name of Mine/s	*Opening Stock			Production					*Issues		*Closing stock		
		Crude	SDB	Chillas	Crude	SDB		Total Crude	Total SDB	Crude issue for dressing	Receipts after dressing	Crude	SDB	Chillas
						Mine Dump	Factory Dump							
											SDB Chillas			

Signature.....

(Name in full of the signatory)

Designation.....

Date of Despatch.....

\*Total stock or issue from all mines are to be shown



## FORM L—[See Rule 14(b)]

Quarterly return in respect of IRON ORE for the quarter ending.....195 ;

**IMPORTANT**

This Form must be returned within  
30 days before the expiry of each  
quarter, duly filled in.

Submitted to:  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources  
and Scientific Research, New Delhi.

(1) Name of the Mine.

(2) Location:

Village..... Post Office.....

District..... Taluk or Thana.....

Division..... State.....

(3) Name and address of the individual, Firm or Company operating.

**Mining:**

(i) Stocks of ore at the beginning of the Quarter..... Tons.

(ii) Ore raised during the quarter.

(a) Underground workings..... Tons.

(b) Opencast workings..... Tons.

Total of (i) and (ii)..... Tons.

(iii) Ore treated or despatched..... Tons. Iron contents..... %

(iv) Stocks of ore at the end of the quarter..... Tons.

(v) Value per ton:

(a) Pit head..... Rupees

(b) f.o.r. (State Rly. Station)..... Rupees

(c) f.o.b. (State Port)..... Rupees

(vi) Analysis of Ore..... Tons.

Signature.....

(Full name of the signatory)

Designation.....

Date of Despatch.....

## FORM M—[See Rule 14(b)]

Quarterly return in respect of ILMENITE for the quarter ending.....19 .

**IMPORTANT**

This Form must be returned within  
30 days after the expiry of each  
quarter, duly filled in.

Submitted to:  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources  
and Scientific Research, New Delhi.

(1) Name of the Mine.

(2) Location:

Village..... Post Office.....

District..... Taluk or Thana.....

Division..... State.....

(3) Name and address of the individual, Firm or Company operating.

**Mining:**

(i) Stocks of ore (beach sand) at the beginning of the quarter. ....Tons.

- |  |            |
|--|------------|
| (ii) Ore (beach sand) raised during the quarter. | .....Tons. |
| Total of (i) and (ii)                            | .....Tons. |
| (iii) Ore (beach sand) treated.                  | .....Tons. |
| (iv) Stocks of ore at the end of the quarter     | .....Tons. |

*Grades of Ore recovered from the ore (beach sand) treated:*

- |  |            |
|--|------------|
| (a) Ore above 55% Tio <sub>2</sub>                   | .....Tons. |
| (b) Ore above 40% but less than 55% Tio <sub>2</sub> | .....Tons. |
| (c) Ore below 40% Tio <sub>2</sub>                   | .....Tons. |

*Value per Ton:*

- |                                 |              |                         |
|---------------------------------|--------------|-------------------------|
| (a) Pit head                    | .....Rupees. | % of Tio <sub>2</sub> . |
| (b) f.o.r. (State Rly. Station) | .....Rupees. |                         |
| (c) f.o.b. (State Port)         | .....Rupees. |                         |

*By-Products:*

- |                 |            |  |
|-----------------|------------|--|
| (i) Rutile      | .....Tons. | Tio <sub>2</sub> content.....%               |
| (ii) Silimanite | .....Tons. | Al <sub>2</sub> O <sub>3</sub> content.....% |
| (iii) Garnet    | .....Tons. |  |
| (iv) Others     | .....Tons. |  |

Signature.....

(Full name of the signatory)

Designation.....

Date of Despatch.....

## FORM N—[See Rule 14(b)]

Quarterly return in respect of COPPER ORE for the quarter ending.....

**IMPORTANT**

This Form must be returned within  
30 days after the expiry of each  
quarter, duly filled in.

Submitted to:  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

(1) Name of the Mine.

(2) Location:

Village.....

Post Office.....

District.....

Taluk or Thana.....

Division.....

State.....

(3) Name and address of the individual, Firm or Company operating.

*Mining:*

- |   |              |
|---|--------------|
| (i) Stocks of ore at beginning of the quarter | .....Tons.   |
| (ii) Ore raised during the quarter:           |              |
| (a) Underground workings                      | .....Tons.   |
| (b) Opencast workings                         | .....Tons.   |
| Total of (i) and (ii)                         | .....Tons.   |
| (iii) Ore milled/despached                    | .....Tons.   |
| (iv) Stocks of ore at the end of the quarter  | .....Tons.   |
| (v) Nature of the ore (Analysis)              | .....Tons.   |
| (vi) Value per ton:                           |              |
| (a) Pit head                                  | .....Rupees. |
| (b) f.o.r. (State Rly. Station)               | .....Rupees. |
| (c) f.o.b. (State Port)                       | .....Rupees. |

Copper ore—(Contd.)

## SMELTER REPORTS

(i)

Ore Concentrated/ treated tons	Copper content %	COPPER				RECOVERIES			
		Matte Tons	Blister Tons	Fire refined copper Tons	Gold Ozs. Value Rs.	Silver Ozs. Value Rs.	Other Metals Lbs. Value	Sulphuric acid Tons Value	

(ii)

Copper used for alloying		Metals imported for alloying with copper			Alloys produced		
Tons	Value Rs.	Description	Tons	Value Rs.	Description	Tons	Value Rs.

Signature.....  
 (Full name of the signatory)  
 Designation.....  
 Date of Despatch.....

## FORM O—[See Rule 14(b)]

Quarterly return in respect of LEAD AND ZINC ORES for the quarter ending.....19

**IMPORTANT**

This Form must be returned within 30 days after the expiry of each quarter, duly filled in.

Submitted to:—

The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

(1) Name of the Mine.

(2) Location:

Village.....

Post Office.....

District.....

Taluk or Thana.....

Division .....

State.....

(3) Name and address of the individual, Firm or Company operating.

**Mining:**

- (i) Stocks of ore at beginning of the quarter . tons
- (ii) Ore raised during the quarter: . tons
- (a) Underground workings . tons
- (b) Opencast workings . tons
- Total of (i) and (ii) . tons
- (iii) Ore treated or despatched . tons
- (iv) Stocks of ore at the end of the quarter . tons
- (v) Value per ton:
- (a) Pit head . Rupees
- (b) f.o.r. (State Rly. Station). Rupees
- (c) f.o.b. (State Port) . Rupees
- (vi) Analysis of Ore.

**Ore Milled:**

1. Concentrates recovered ... tons
- Metal content ... tons
2. Concentrates exported ... tons
- Metal content ... %
3. Destination of exports
- Value ... Rupees
4. Freight to destination (per ton) ... Rupees

SMEALTER REPORT  
LEAD

Lead					Recoveries				
Pig		Refined			Pigments	Silver		Other Metals	Sulphuric Acid
Tons	Value Rs.	Tons	Value Rs.	Tons	Value Rs.	Ozs.	Value Rs.	Lbs.	Value Rs.

ZINC

Zinc					Recoveries				
Distilled		Electrolytic			Oxide	Metals		Sulphuric Acid	
Tons	Value Rs.	Tons	Value Rs.	Tons	Value Rs.	Description	Weight	Tons	Value Rs.

Signature .....  
(Full name of the signatory)  
Designation.....  
Date of Despatch.....

# MINERALS CONSERVATION & DEVELOPMENT RULES, 1955

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## FORM P—[See Rule 14(b)]

Quarterly return in respect of GOLD AND PRECIOUS METALS for the quarter ending.....19

### IMPORTANT

This Form must be returned within 30 days after the expiry of each quarter duly filled in.

Submitted to:—  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

(1) Name of the Mines

(2) Location:—

Village.....

Post Office.....

District.....

Taluk or Thana.....

Division.....

State.....

(3) Name and address of the individual, Firm or Company operating.

### Mining:

(i) Stocks of Ore at the beginning of the quarter .....Tons

(ii) Ore raised during the quarter—

(a) Underground workings .....Tons

(b) Opencast workings .....Tons

Total of (i) and (ii) .....Tons

(iii) Gold content of the Ore .....dwts. per ton.

(iv) Ore milled .....Tons

(v) Stocks of Ore at the end of the quarter .....Tons

### Milling:

(a) Ore Milled.....Tons

(b) Material sorted to waste.....Tons

(c) Ore concentrated, cynided, etc.....Tons

(d) Gold concentrates produced.....Tons

(e) Estimated gold content.....dwts. per ton

(f) Old tailings treated.....Tons

(g) Bullion recovered by—

(i) Cynidation.....crude ozs.

(ii) Amalgamation.....crude ozs.

(iii) Other metals recovered.....ozs.

### Bullion Produced\*

(i) Gold.....fine ozs.

Value.....Rupees

(ii) Silver.....fine ozs.

Value.....Rupees

Signature.....

(Full name of the Signatory)

Designation.....

Date of Despatch.....

### \*INSTRUCTIONS.

Under item "Bullion produced" basis of calculating the value may be furnished.

## INDIAN LABOUR CODE

## FORM Q—[See Rule 14(b)]

Quarterly return in respect of PRECIOUS AND SEMI-PRECIOUS STONES  
for the quarter ending.....19

**IMPORTANT**

This Form must be returned within  
30 days after the expiry of each  
quarter, duly filled in.

Submitted to:—

The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

(1) Name of the Mines.

(2) Location:—

Village.....

Post Office.....

District.....

Taluk or Thana.....

Division.....

State.....

(3) Name and address of the individual, Firm or Company operating.

**Mining:**

(i) Stock at beginning of the quarter—

(a) Rough.....Tolas

Value.....Rupees

(b) Cut.....Tolas

Value.....Rupees

(ii) Stones raised during the quarter—

(a) Underground workings.....Tolas

Value.....Rupees

(b) Opencast workings.....Tolas

Value.....Rupees

Total of (i) (a) and (ii).....Tolas

(iii) Stock used during the quarter for

cutting.....Tolas

Value.....Rupees

(iv) Closing stocks at the end of the quarter

(a) Rough.....Tolas

Value.....Rupees

(b) Cut.....Tolas

Value.....Rupees

**CUTTING OR DRESSING REPORT**

(State whether data are given in tolas and ratis or in metric carats equivalent to 0.2 grams.)

Type of Material	Weight of rough stones	Weight of cut gems	Value Rs.	Balance rough stones

Signature.....

(Full name of the Signatory)

Designation.....

Date of Despatch.....

FORM R—(See Rule 16)

Notice of sinking shafts and new bore holes in respect of.....  
(mineral or minerals)

**IMPORTANT**

Notice in this Form shall be sent within 15 days after the commencement of sinking shaft or boreholes.

To  
The Director,  
Indian Bureau of Mines,  
Ministry of Natural Resources and  
Scientific Research, New Delhi.

Sir,

I have to furnish the following particulars:—

1. Name and address of licensee/lessee.
2. Situation of the area:
  - (i) Village.
  - (ii) Post Office.
  - (iii) Police Station.
  - (iv) District.
  - (v) State.
  - (vi) Nearest railway station or steamer ghat and distance therefrom.
  - (vii) Means of conveyance from railway station or steamer ghat to mine.
  - (viii) Nearest dak bungalow or rest house.
3. Area of the licence/lease.
4. Date of grant and period of licence/lease. (State if the lease is granted under Rule 61 of the Mineral Concession Rules, 1949).
5. Name of mine if any.
6. Depth and dimensions of the existing shaft or bore hole, if any, giving reference to plan.
7. Whether any notice in respect of any of the shafts or bore holes was already given; give reference to plan.
8. Attach plan on a scale 1" to 330' indicating the precise location of the shafts or bore holes existing and intended to be sunk or extended.
9. Purpose for which each of the shafts or bore holes is intended to be put or extended.
10. Type of new shaft and its/their dimensions contemplated.
11. Type of drill used and size of core to be obtained.
12. Mineral or minerals encountered.
13. If the shaft or bore hole commences from underground, the depth of the level at which the shaft or bore hole is put.
14. Name and address of agent.
15. Name and address of manager.
16. Name and address of the driller, in charge of boring operation.
17. Name and qualifications of the geologist or mining engineer in charge of operations.
18. Date on which it is proposed to start sinking operations.

Signature.....  
(Full name of the Signatory)  
Designation.....  
Address.....  
Date of Despatch.....

FORM S—(See Rule 17)

Particulars to be furnished in the Journals.

- (i) Full description of the site where a shaft or bore hole is sunk:
  - Thana, Taluk.
  - Post Office.
  - Nearest Railway Station.
  - State and District.
- (ii) Full details including the shape and dimensions of shaft or borehole.
- (iii) Daily progress of work, detailing feet drilled or sunk and the length of core recovered and serial number of samples of core or fragments of rock preserved.



- (iv) Description of the soil or rock encountered in sinking the shaft or borehole.
- (v) Depths at which any mineral is struck and the thickness and disposition of such vein, mineral zone or seam.
- (vi) Results of analyses of samples, if carried out.
- (vii) Special features, if any, which were met during the operation (*e.g.* joints, faults, seepage of water, etc.)
- (viii) Date of commencement of the operations.
- (ix) Date of completion or abandonment of the work.
- (x) If abandoned, the reasons for such abandonment.
- (xi) The total depth sunk.
- (xii) Cost per foot of sinking the bore-hole or shaft.

## MANUAL OF INSTRUCTIONS

(Supplementary to the Minerals Conservation and Development Rules, 1955)

### Arrangement of Paragraphs

#### CHAPTER I—INTRODUCTION

#### CHAPTER II—PROSPECTING

Instructions.

Exposition.

Methods of Prospecting.

- (i) Tracing float.
- (ii) Panning.
- (iii) Trenching.
- (iv) Pitting
- (v) Drilling.
- (vi) Location of bore-holes.
- (vii) Underground development.

#### CHAPTER III—QUARRYING AND OPENCAST MINING

Instructions.

Exposition.

Quarrying with hand-loading of ore.

Open cut mining by power shovels.

Glory Hole Mining.

Hydraulic Mining.

Blasting in quarries.

Deep hole Blasting.

Springing deep holes.

Coyoto Blasting

Quarrying of dimension stone.

#### CHAPTER IV—DEVELOPMENT

Instructions.

Exposition.

Mode of Entry.

Position and number of shafts.

Adits.

Lateral Development

Drives.

Size of Drives.

Raises and Winzes.

#### CHAPTER V—STOPING AND DEPILLARING

Instructions.

Exposition.

Selection of method of stoping.

Mining of Bedded Deposits.

Depillaring.

Horizon Mining System.

CHAPTER VI—~~MINE~~—PLANS, MAPS AND SECTIONS

Instructions.

Exposition.

- (i) Geological Maps.
- (ii) Mine Plans.
- (iii) Assay Plans.

CHAPTER VII—ORE DRESSING

Instructions.

Exposition.

Scope of Ore Dressing.

- (i) Communion.
- (ii) Sizing.
- (iii) Concentration.
- (iv) Dewatering.

Principal Ore Dressing Processes.

CHAPTER VIII—MISCELLANEOUS

MANUAL OF INSTRUCTIONS<sup>1</sup>

CHAPTER I

Introduction

It will be observed that the rules framed under section 6 of the Mines and Minerals (Regulation and Development) Act, 1948, are confined mainly to the enunciation of principles, policies and procedures and do not include the details as regards processes and techniques which have to be followed. It was considered that the details as regards processes and techniques could best be dealt with in a Manual of Instructions.

The object of this Manual is to provide not a text book on mining and conservation practices and techniques but certain information and directions of an elementary character without which the purpose of the rules under Section 6 cannot be fulfilled. Most of the units in the mineral industry will not need to refer to this Manual of Instructions for any new information. Experience has shown that some of the smaller units have not yet settled down to the rational methods of mineral exploitation based upon scientific and up-to-date methods. This has been fully borne out by the various committees appointed by Government for enquiring into the affairs of the mineral industry during the last three decades. The need for scientific methods of mineral exploitation, leading to systematic mining, conservation and fuller utilisation of minerals, which are a national asset, has been proved beyond doubt.

The Manual of Instructions which is set forth in the following pages is by no means a comprehensive treatise on the subject. It is merely an illustrative proposition. Rule 21 of the Conservation and Development Rules give the Director, Indian Bureau of Mines power to issue any instruction concerning the provisions of the Act. These instructions would be, more or less, within the framework of the Manual of Instructions which will be added to or subtracted from as time goes on and more experience is gathered as regards the best methods of exploitation of minerals to be employed. Notwithstanding the flexible nature of these arrangements, the object in view, namely that of ensuring the exploitation of the country's mineral wealth to the maximum national advantage and without waste will not be achieved without the willing co-operation of those who are engaged in this vital industry.

CHAPTER II—PROSPECTING

Instructions

1. All prospecting operations should be carried out under the guidance of a qualified Geologist or a Mining Engineer.
2. The holder of a prospecting licence should prepare a geological map of his area on a scale not less than 4" to a mile, showing various geological formations, dips of strata, outcrops of ore-bodies or seams, dykes, faults etc. occurring in his area.

<sup>1</sup> The Manual of Instructions was published by the Ministry of Natural Resources & Scientific Research, Government of India as Supplementary to the Minerals Conservation and Development Rules, 1955.

3. The holder of a prospecting licence for any mineral should, during the tenure of his licence, investigate systematically by trenching, pitting, drilling and such other operations as may be deemed necessary, to ascertain the underground disposition, shape, size and the grade of the ore-body or seam constituting the mineral deposit.

4. The size of trenches, pits and other excavations should be just adequate for proving the deposit.

5. The holder of a prospecting licence should prepare a plan of the area under licence on a scale not less than one inch to 330 ft. showing accurately the disposition of the ore-body in the area in relation to the country rock and the position of each of the bore-holes, pits, shafts, trenches, and other excavations made during the course of prospecting.

6. All exposures in exploratory headings should be measured and sampled. Width of the ore-bodies and assay values should be entered in the assay plan together with any additional geological data observed in them.

### Exposition

Prospecting is a scientifically planned search, based on the knowledge of geology, for proving incidence, extent, quality and reserves of an economic mineral for the purpose of its exploitation and thereafter utilisation in industry. Prospecting therefore, is the first necessary step in any programme of mineral exploitation.

It is suggested that a geological map of the area, under licence should first be prepared, say on a scale of 4": 1 mile, from a study of which it should be possible to lay out smaller sections for a scheme of intensive exploration. The areas so selected may be remapped in greater detail on a scale, say 16": 1 mile and this second geological map will be of immense use for selection of sites for bore-holes, pits, shafts, trenches and other exploratory operations.

### Methods of Prospecting

Broad features of lithology and structures of area delineated during mapping will be the guiding factors in laying out a plan of prospecting.

On strict scientific basis geophysical methods of prospecting should succeed the geological mapping mentioned above. However, the specialised scope of these methods do not render them suitable in the case of simple occurrences of economic minerals which are fairly obvious on surface examination and are negotiable within shallow depths. Geophysical methods are widely known and described in text books on the subject and are not elaborated here.

Search for minerals or ore-bodies, which crop out may be undertaken by (i) tracing float, (ii) panning, (iii) trenching, (iv) pitting, (v) drilling, (vi) location of bore-holes, and (vii) underground development or by a combination of the above mentioned methods.

(i) **Tracing float.**—Pieces of ore dislodged from the parent mass by processes of disintegration are drifted downhill and forms subsidiary mass constituting a 'float ore'. By the study of float ore, the parent ore body can be located.

(ii) **Panning.**—Panning is a process of separation of finely comminuted particles of a mineral of high specific gravity effected by the use of a shallow oval disc with sloping sides defined as a pan. The separating medium is generally water.

(iii) **Trenching.**—Trench is an elongated excavation with definite alignment. Cross-section of a trench depends on the depth and the purpose. It should be as small as practicable. The trench is usually dug out at right angles to the formations and the indicated strike of the ore-body.

(iv) **Pitting.**—Trial pits are dug in places where the over burden is too thick for trenching, and normally in areas free from boulders and excessive seepage of water.

Trial pits for systematic exploration are laid down at the corners of squares whose sides are determined by the anticipated nature of the ore-body and the thickness of the soilcover.

(v) **Drilling.**—In cases where the soil-cover or over burden exceeds 30/40 feet of loose ground or is in heavily water-bearing strata, drilling is suggested.

(vi) **Location of bore-holes.**—Location of bore-holes is done at the corners of squares after determining the probable trend of the ore-body as indicated under pitting. Spacing of bore-holes is determined by the nature of the ore-body.

Besides the regularly spaced bore-holes conditions may warrant location of a few additional ones to secure greater details regarding the structural features of the rocks.

(vii) **Underground development.**—Discussed under Chapter 'Development'.

CHAPTER III—QUARRYING AND OPENCAST MINING

**Instructions**

1. Mineral deposits out-cropping or occurring near the surface which are suitable for open cast mining should be worked systematically by benching.
2. The width of the benches should not ordinarily be less than  $\frac{2}{3}$ rd of the height of the bank so as to facilitate simultaneous working of all benches by manual or mechanical means.
3. If the overburden is earth, clay or murrum, and if the working is carried out by benches, the height of each bench should not exceed 4 ft. and if the sides are sloped, the angle of the slope with the horizontal should not be less than  $45^\circ$ .
4. There must be suitable arrangements for efficient drainage of monsoon or seepage water, and where necessary, sumps should be provided to collect the drainage water for pumping it out by suitable appliances such as syphon or pumps.
5. Debris, waste rock and mine spoils should not be mixed up or dumped on the dip side of the ore body or seam, which may have to be worked by open cast methods. They should be separately stocked on proved barren grounds.

**Exposition**

Minerals are usually won from the outcrops by open pits and workings which are open to the sky.

This system of extraction of minerals can be adopted in case of massive deposits or even irregular deposits at or near the surface so long as the removal of soil cover or rock to be excavated for winning the ore does not become uneconomical.

In opening up a quarry attention should be focussed on the following points:—

1. The face or faces opened ensure at least a minimum marketable output within a certain period and for certain length of period to cover the interest of the capital invested and the required annual contribution to the sinking fund, and to meet reasonable increase in the demand.
2. The faces are opened in such directions as to allow the drilling of blast holes across or inclined to the planes of bedding or laminations or joints.
3. The procedure for disposal of waste is made easy and that such wastes are dumped away preventing the burying up of any extension of the ore body worked or any other economic mineral.
4. Accumulation of water during rains in the quarry may be avoided and suitable appliances such as pumps, syphons etc. may be provided.

A quarry may be worked by benches or slopes.

In preparing the benches note should be taken that there is no possibility of land slides and that over-hangings or under-cuttings are avoided.

The width of a bench should be such that handling of broken ore can be done with safety and ease; and where machines are used for excavation, benches should be sufficiently wide for accommodating the loading track, shovels and excavators.

The height and width of benches should be such that the general slope (a line drawn through the outer edge of the top and bottom benches) should not exceed  $40^\circ$  to the horizontal. Steeper angles can be kept only in case of strong and massive deposits. Lower angles are necessary for loose-bedded deposits or soft materials and weak country rock.

In laying out a pit, it is a good practice to have the initial cuts in the orebody along the longer axis of the ore mass so that loading tracks are kept straight as far as practicable and the connecting curves from other approach tracks are not too sharp.

**Quarrying with hand-loading of ore**

Quarrying with hand-loading of ore is done (a) in small pits where the scale of operations does not permit economic use of mechanical excavators, (b) in large scale work where ore body is patchy and labour is cheap.

**Open cut mining by power shovels**

The excavation by power shovels is done in large quarries with good reserves of fairly uniform grade of ore with or without any overburden.

Slopes which will stand well at ordinary depths may not be safe for great depths. Presence of faults, joints etc. particularly when associated with moisture and clay bands will necessitate gentler slope. In all cases, the bench should have the minimum economic width and the maximum economic height.

The width of a bench is largely determined by the angle of repose of the broken material. The width required to accommodate the broken ore plus space required for shovels, etc. is the width recommended to be followed.

The angles of repose of certain type of rocks are given below:

<i>Kind of Earth</i>	<i>Slope</i>	<i>Angle of Repose</i>	
Sand, clean (loose) ...	1.5 : 1	34°	Data collected from Peel's Mining Engineers Handbook Table 3 page 3—30
Sand & clay (loose) ...	1.33 : 1	37°	
Sand (wet) ...	2.5 : 1	22°	
Gravel clean, loose ...	1.33 : 1	37°	
Gravel & clay (loose) ...	1.33 : 1	37°	
Clay (dry & loose) ...	1.33 : 1	37°	
Clay, dry (natural) ...	1 : 1	45°	
Clay wet ...	3.5 : 1	16°	
Rock hard ...	1 : 1	45°	

When blasting is resorted to, gentler slopes than the above may be adopted.

### Glory Hole Mining

This method of mining is applicable to massive or thick orebodies with overburden which can be economically stoped, but the scale of operations is too small to warrant large capital investment for power shovels and locomotive haulage. The over burden may be completely stripped before mining or it may be stripped in sections along with the mining of the ore.

Preliminary development required consists of an underground haulage proceeding to a shaft, and winzes from the surface connecting with the haulage. The ore around each raise is 'milled' into it forming a funnel shaped pit and the broken rock gravitates to the haulage. The ore should slide on moderate slopes and not pack in the raises. Bad weather seriously hinders the work. Wet ore and water give trouble and render the work on steep slopes doubly dangerous. Surface water must be kept out by ditching. This method has the advantage of providing cheap handling and loading.

### Hydraulic Mining

Hydraulic mining is essentially a process of loosening gravel or alluvial deposit containing values with high pressure hydraulic nozzle known as 'giant' or 'monitor'. It is suitable only where the loosened material can move downgrade by gravity and the flow of water.

Water from a reservoir or from streams at a higher level than the places to be worked is conducted through pipes to the 'monitors' or 'giants' which control the direction of the jet. Gravel is broken down partly by the direct impact of water jets under pressure and partly by undercutting the bed and forcing the bank to cave. Water carrying dislodged gravel or alluvium flows away from the face and is conducted through a sluice into a dump. The heavy mineral portions are caught in the riffles in the sluice. The total length of sluice needs to be such that the values are disintegrated from the clays or gravels. The chief problems connected with hydraulic mining are water supply sluice grades and tailing disposals and attention to these points are essential.

Sufficient pressure is necessary to allow the giants to do effective work from a safe distance from the working face.

A contour plan of the area to be hydraulicked always proves to be of immense value as from such a plan the layout of the sluice boxes and the disposal of dumps can be judiciously planned.

The common loaders used in quarry work are (a) power shovels, (b) draglines, (c) scrapers or shovels and (d) elevating graders.

### Blasting in quarries

Some of the few special methods practised in quarry blastings are described below:—

#### Deep hole blasting

The explosive is spread out in several charges, separated by stemming, each charge having its own primer and all charges being connected by a fuse. Informations consisting of hard and soft rocks, charges are placed in the hard rock. Black powder used for long hole blasting is exploded by a dynamite primer.

The holes are drilled in a line, the holes in the different rows being staggered with those of the adjoining rows.

The depth of the row of holes nearest to the free face may be equal to or less than that of the holes in the other rows. Holes may be vertical or inclined and may be drilled in conjunction with inclined holes.

### Springing deep holes

Deep holes are sometimes sprung at the bottom to blast a chamber to accommodate a large concentration of explosives.

1. Springing is best done by gelatin dynamite.
2. First springing charge occupies about 0.05 of the total depth of the hole.
3. Several springings may be necessary before the final charging.
4. Considerable time should elapse between one springing and charging for the next springing. It is recommended that 1, 2, 4 hrs. etc. should elapse after the 1st, 2nd, 3rd, 4th springing before recharging. The final charge should be loaded only 24 hrs. after the last springing charge.

### Coyoto Blasting

A tunnel of about 3 ft.  $\times$  4 ft. is driven into the face, its length being  $\frac{2}{3}$  of the height of the face above the tunnel. At the end of the tunnel, crosscut drives are driven either side in the form of a 'T', the length of the crosscut being approximately equal to the length of the tunnel. Powder pits are sunk in the cross-cut to accommodate the estimated charge.

Coarse grained black powder primed with 60 per cent. straight dynamite may be used.

Coarse-grain black powder, primed with 5—10 per cent. of its wt. of 40 or 60 per cent. straight dynamite, gives best results. To find required charges, first compute the cu. yd. of material above the tunnel ('yardage in the square of the shot') = (length of tunnel  $\times$  blast often breaks twice the yardage in square of shot, but the above length cross-cut  $\times$  average height of face, ft.)  $\div$  27. A well designed is conservative.

### Quarrying of dimension stone

Quarrying of stones required in fixed sizes are done where cleavage and joint planes are pronounced.

Blocks are dislodged by blasting or 'plug and feathering' or by 'broaching'.

## CHAPTER IV—DEVELOPMENT

### Instructions

1. All Mining operations must be carried out under the guidance and supervision of a qualified Mining Engineer and/or Geologist.

2. A mineral deposit should be developed and opened up systematically to its full extent both laterally and in depth. The drifts, galleries, winzes or raises should be well planned and regular to develop the entire thickness of a deposit and must not be crooked, narrow or irregular so as to connect only the richer sections of the ore-body. However, small isolated pockets which cannot be opened up systematically may be developed in any convenient manner.

3. During development, samples should be taken at regular intervals and analysed. A register should be maintained in which complete details of the locations from where the samples were taken, the width of the lode at the spot, method of sampling, date of sampling, results of analyses and the name of the sampler and analyst should be entered.

4. During development operations (unmineralised) waste rock should be dumped separately from the poor grade ore or mineralised waste. No debris, waste rock, or mine spoils should be dumped on the dip side of the ore body or in such a manner as will hinder complete economical extraction of the ore subsequently.

5. All mine workings should be kept clean and dry. No ore or debris should be piled up in the levels or galleries. If necessary, suitable pumps should be installed to provide efficient drainage of the mine. Water should not be allowed to accumulate in workings except in sumps especially provided for the purpose from which water will be eventually either hauled or pumped out.

6. When a mine attains such magnitude as to need the use of mechanical appliances, such as mechanical haulage, winder, pump, pneumatic drills and mechanical ventilation,

machinery (including air conditioning units etc.) the owner should install such machinery in the interest of efficient working of the mineral deposit.

7. If a deposit contains large blocks of ore or seams of sub-marginal grades which cannot be economically exploited and suitably blended or beneficiated, they may be left unworked in a manner to render them workable at some future date.

### Exposition

Development consists of driving openings to and in an ore body to prepare it for mining and transporting of ore and to obtain further and more detailed information as to the character and size of the orebody. The latter is more important in ore bodies of irregular shape and tenor.

Problems to be decided to start with are (a) the mode of entry, which involves a decision between vertical or inclined shafts, drifts or cross-cut tunnels or combination of these and (b) the lateral or subsidiary development within the orebody. As development work is often more costly than stoping operations, a judicious decision of the ratio of tonnage proved to footage of development, consistent with the exploratory value and scientific mining is of paramount importance. The relative cost of driving the development workings, the period of maintaining them will influence any decision as to their size, mode of support and location.

**Mode of Entry.**—Location of main entries to an orebody is governed by the depth, dip of the vein or seam, surface topography, the character of the orebody and the walls, and the relative costs of driving and maintaining them.

**Position and number of shafts.**—The position of a shaft is determined by the number of shafts proposed to be sunk. One of the chief consideration is to equalize the lateral development underground so that the average tramping distance is not excessive. The following points may be considered for selection of sites for shafts.

- (a) The shafts should be located far from possible sources of surface water.
- (b) Faulted ground, or proximity to dykes and other geological disturbances which tend to structurally weaken rock masses should be avoided.
- (c) Heavily fissured or loose formations should be avoided as far as possible.
- (d) A certain elevation of the shaft collar over the site selected for installation of milling plant is considered desirable.

The number of shafts is also governed by—

- (a) Capacity of shafts and the daily output envisaged and the number of men likely to be employed in the mine.
- (b) The average tramping distance.
- (c) Requirements of ventilation and the transport of material other than ore.
- (d) Regulations.

The size of the shaft is governed mostly by its required capacity which depends on depth, speed of winding and number of underground loading stations.

**Adits.**—In mountainous regions, entries to the ore-body may be made by adits, or cross-cut tunnels. This will constitute an advantage only when a considerable tonnage of ore can be worked by the adits.

### Lateral Development

**Drives.**—(a) Drives are driven as far as possible, within the lode and parallel to the average strike of the lode. They provide means of ingress and egress to the persons working in a mine, develop the ore-body, and serve purposes of exploration.

The interval between levels is governed by—

- (a) cost of drifting,
- (b) the dip of the ore-body,
- (c) method and speed of stoping,
- (d) nature of the ore-body, whether regular or not.

According to Peele, interval, largely the result of custom, is 100—150 ft. but practice tends towards greater distances where feasible. Large intervals in mica mines in India have not proved economical, because overhand drill stoping and filling back system warrants 25 feet to 30 ft. interval, otherwise rock in excess of that which is required to fill the stopes has to be hauled out.

Where large tonnages are handled, it is preferable to locate the haulage drive in the country rock some 20 ft. to 30 ft. below the footwall because such drives can be driven straight irrespective of trend of the orebody and may therefore be designed for mechanical

haulage and are cheaper to maintain. In planning for deep mining, it may be advisable to locate the haulage drives some 40 ft. below the footwall of the load.

**Size of the drives.**—Exploratory drives are usually 6 ft. high  $\times$  5 ft. wide. Larger sections will be unduly costly while smaller sections will greatly reduce efficiency of work as a result of lack of space. The cross section of the drifts would be judged by the following:

1. Purpose of the drift.
2. Size of cars used.
3. Method of loading.
4. Nature of drainage ditches.
5. Ventilation requirements.
6. Head room required.

### (b) Raises and winzes

Raises and winzes are driven usually in the lode for developing the ore body, to connect drives for purposes of ventilation, to provide a face for starting stoping operations and to enable sections to be sampled for computation of ore reserves. Of the two, raising is always preferred to winzing as the costs of mucking and drainage are much less than those of winzing.

Wherever practicable, a determination of these ratios will be of help:

Vol. of ore developed per unit of dead work	}	Vol. of ore developed (c.ft.)
		Whole Vol. of dead work development.
Vol. of ore developed per unit of productive development	}	Vol. of ore developed (c.ft.)
		Whole vol. of productive development (c.ft.)
Vol. of ore per unit of development	)	Vol. of ore developed (c.ft.)
		Combined vol. of dead work plus productive development (c.ft.)

## CHAPTER V—STOPING AND DEPILLARING

### Instructions

1. The actual stoping or depillaring should not be commenced till the ore body or the seam or a district of a mine has been completely developed.
2. In case the development and stoping are being carried out simultaneously, the relative proportion of development work to stoping or depillaring in a mine should follow the general principle of ensuring at least two years output.
3. The lessee should work all workable beds, seams or ore bodies occurring in his area and should not confine his operations to easily accessible or marketable grade of mineral.
4. Submarginal grades of ore may be blended with higher grades of ore to produce a marketable grade ore.
5. When two or more beds or seams are worked in a mine, the methods of stoping or depillaring should be such as to avoid premature collapse of workings in any of the beds or seams or loss of or damage to the mineral deposit.
6. If two or more levels are worked in a bedded deposit the plan of working should be such as to avoid loss of minerals.
7. Proper record of total proved, probable and possible reserves of ore and reserves of ore proved during the course of each year should be maintained.
8. Unmineralised waste rock should be dumped separately from the poor grade ore or mineralised waste. No debris, waste rock, or mine spoils should be dumped on the dip side of the ore body or in such a manner as will hinder complete economical extraction of the ore subsequently.

### Exposition

Stoping is the process of actual mining or extraction of the orebody other than by development.

The standard methods of stoping may broadly be classified as under:—

1. Open stopes without support as in small and narrow ore bodies.
2. Open stopes with casual pillars.



3. Open stopes with regular pillars.
4. Sub-level stoping.
5. Shrinkage stopes:
  - (a) with pillars
  - (b) without pillars
  - (c) with waste filling done subsequently.
6. Cut and fill stoping.
7. Stulled stopes in narrow veins.
8. Square set stoping.
9. Block caving.
10. Sub-level caving.
11. Top slicing.
12. Resuing.

**Selection of method of stoping.**—The method of stoping selected must be safe, efficient and economical. The guiding factors are:—

1. The dip.
2. The width of the ore-body.
3. The character of the walls.
4. The strength of the ore.
5. The cost of the materials used for support.
6. The value of the ore.
7. The distribution of values.
8. The depth below the surface.

**Mining of Bedded Deposits.**—There are two principal systems of mining bedded deposits (a) Board and Pillar (b) Longwall. These methods with slight modifications are widely employed in salt mines, coal mines and other flatly dipping bedded deposits.

Board and pillar method of mining is suitable under the following conditions:—

1. Working under water.
2. If there is difficulty of obtaining packing or stowing material for filling the goaf.
3. If a number of important buildings on the surface are required to be protected.
4. If the area is disturbed geologically.
5. When the roof or strata immediately overlying the seam or bed is weak, and jointed.

The conditions favourable for longwall method of mining are:—

- (a) A seam free from faults and other geological disturbances.
- (b) A thin seam.
- (c) Where dirt packings exist in the seam and where bed of thin shale overlies the seam.

Depending on the direction of advance of working face, this system has been classed into two categories:

1. Retreating longwall system.
2. Advancing longwall system.

**Depillaring.**—Pillars may be extracted either after developing the entire property or a district of the property if development has been carried in a pannel system.

In all cases, a diagonal line of face is always maintained. Reduction or robbing of pillars result in premature collapse and loss of mineral.

**Horizon Mining System.**—In steeply dipping seams, and in seams which are folded or otherwise geologically disturbend horizon mining as practised in some countries, may be adopted. The advantages claimed for this method of development are:—

1. Efficient transport in the cross-measure drifts by locomotives and through the main shafts by the Koepe system of winding.
2. Low maintenance costs on haulage roads.
3. Better ventilation.
4. Most suitable method for highly inclined seams.

## CHAPTER VI—MINE—PLANS, MAPS AND SECTIONS

### Instructions

1. The owner, agent or manager of every mine shall keep in the office at the mine an accurate plan and section or sections properly inked on durable paper, of the workings of the mine on a scale of not less than 100 feet to 1 inch, showing the workings up to a date not more than six months prior to the preparation of such plan and sections. The name of the mine, its owner and the scale should be shown on the plan and sections

The magnetic meridian, with date must also be shown on the plan. The plans and sections should also show all shafts, drives, cross-cuts, winzes, raises, excavations (stoped ground), and any tunnels and passages connected therewith. They should also show the boundaries of the underground leasehold where possible, and all important surface features within the boundaries such as railways, roads, rivers, streams and reservoirs which overlie any part of the workings or any point within 600 feet of any part of the mine workings; also the general strike of the veins or mineral deposits, with their dips at different points, and the dislocations of the strata.

2. The owner, agent or manager of every mine should keep on the mine premises, a geological map of the property showing the rock formations and disposition of the deposit on a scale not smaller than 1 inch to 330 feet.

3. The owner, agent or manager of a mine must produce on demand to the Director or any officer authorised by him at the office of the mine, plans and sections of the mine and also mark on such plans and sections, the then state of the workings of the mine, and the Director or the officer may examine and make or have a copy made of such plans and the sections.

4. Where any mine or any part of the mine is abandoned, or the working thereof has been discontinued for a period exceeding one year, the person who was the owner of the mine at the time of the abandonment or discontinuance should within three months after the abandonment or within fifteen months after the discontinuance of working, as the case may be, send to the Director copies of accurate plans and sections of the workings of the mine up to the time of the abandonment or discontinuance as the case may be.

However if a change of ownership occurs after the abandonment or discontinuance and before the expiry of the three months or the fifteen months period aforesaid, as the case may be, such plans and sections may be sent to the Director within thirty days of the change.

5. An inspection book should be kept at the mine premises and the inspecting officer should enter his observations in that book.

## Exposition

Maintenance of proper plans, maps and sections is essential for working of the mine. Some of the useful information that can be obtained from a study of the maps, plans and sections is given below:—

- (i) **Geological Maps.**—Geological maps and sections prepared from study of the development headings and mine plans will indicate the attitude of the probable line of intersection of the lode with a fault or dyke or axial plane of a fold. Such information will assist in development of the new levels in a manner that unnecessary development is minimised or levels preplanned so as to maintain their direction and grade.
- (ii) **Mine Plans.**—(a) Direction and grade of connecting drifts between known points in underground workings can be calculated from a study of the plans.
- (b) Approach of working to heavy ground, faulted ground, water bearing ground, running ground, old workings etc. can be ascertained well before actual intersection and precautionary measures taken.
- (c) While working a vein under roads railways, bridges, buildings, etc., a study of the plans and sections will indicate the exact underground locations where supports will have to be provided.
- (d) A correct plan indicates at a glance the exact position of the mine workings, the worked out and unworked areas in the mine, the correlation of workings with respect to surface boundaries. It helps in planning suitable haulage, ventilation, production programme and estimation of proved reserves.
- (e) Stope plans prepared in the average plane of the lode will be useful for calculating by measurement the approximate tonnage of ore removed.
- (iii) **Assay Plans.**—(a) Assay plans maintained in the mine are useful to compute the reserves and in laying out payable blocks for mining purposes. Drive samples also assist in locating raises, winzes and cross-cuts.
- (b) Assay contours projected on the geological maps should give a clear picture of the ore concentration.

## CHAPTER VII—ORE DRESSING

**Instructions**

- (1) The owner of a mine which contains low grade ores should make an accurate estimate of the reserves of such ores in his mines.
- (2) He should keep an up-to-date record of the mineralogy of his deposits.
- (3) He should maintain a record of the chemical analysis of different grades of ores occurring in his mines.
- (4) The low grade ores of different compositions should be stacked separately.
- (5) In order to determine the ore dressing processes suitable for his ores the mine owner should arrange for systematic testing of his ores.
- (6) If upgrading is economically feasible, the mine owner should install a suitable beneficiation plant.
- (7) In no case the low grade ore should be used for filling stopes or other excavations, making roads, parapet walls, etc.

**Exposition**

Ore dressing is a process of mechanically separating the valuable minerals from the valueless associated materials of an ore, thereby resulting in the concentration of the valuable minerals. The valueless material of an ore is known as "gangue". Ore dressing techniques will result in the production of "concentrate" containing most of the valuable minerals and "tailing" containing most of the worthless material. The advantages gained by ore-dressing are:

- (1) Saving of freight by removal of the gangue material.
- (2) Reducing more expensive smelting costs on ores by elimination of the worthless burden.
- (3) Removal of the harmful ingredients of an ore such as sulphur, phosphorus, arsenic, etc.
- (4) Facilitate the smelting operations by removal of certain impurities interfering with the process adopted.
- (5) Higher price and greater market demand for the upgraded ore.
- (6) Reduction of the loss of metal at the smelter.

While economic considerations and market demands will decide whether the run-of-mine ore be marketed as such or should be dressed before marketing, there are cases where dressing is an obvious necessity. Considerations which demand dressing of the run-of-mine ore before marketing or utilisation, include the following:—

- (a) Where the ore is required to be transported to a place far away from the mine.
- (b) Where the ore contains deleterious ingredients such as sulphur and phosphorus in the iron-ore, arsenic and zinc in pyritic ore, etc.
- (c) If the difference in the metal content between the crude ore and the ore suitable for smelting is high.
- (d) Where complex smelting problems arise on account of the crude ore being associated with more than one recoverable valuable mineral.
- (e) In the case of a complex ore containing more than one economic mineral constituent, it is observed that only one economic mineral is taken out and the others lost in rejects.

**Scope of Ore Dressing.**—The scope of ore dressing is divided in two parts (i) elimination of unwanted chemical species or (ii) elimination of mineral particles of unsuitable size or structure. The principal steps involved in the ore dressing procedure are (a) Liberation or freeing of valuable minerals from gangue minerals and (b) Actual separation of the liberated minerals into various final concentrates and waste products.

As has already been stated earlier, processes of ore-dressing are essentially mechanical in nature and processes suitable to a particular ore under consideration will have to be evolved by experiments and then standardised. The following physical properties of ore are useful in determining an effective ore dressing process.

- (i) Specific gravity.
- (ii) Lustre.
- (iii) Colour.
- (iv) Surface energy.
- (v) Magnetic susceptibility.
- (vi) Electrical conductivity.
- (vii) Decrepitation.
- (viii) Friability.
- (ix) Co-efficient of friction.
- (x) Particle size.
- (xi) Solubility.

Of these, specific gravity magnetic susceptibility, electrical conductivity and surface energy are more valuable.

Specific gravity, lustre and colour are useful properties for hand sorting and hand dressing.

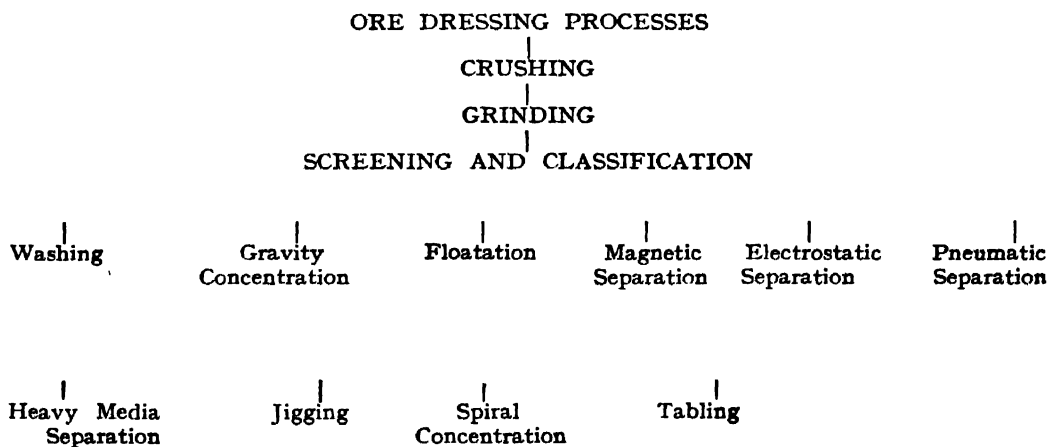
In ore dressing procedure there are four principal types of operations:—

- (i) **Comminution.**—This means reduction to smaller size. Depending on the size of the material this operation is called either crushing or grinding. Crushing means reduction of big lumps to particles of about  $1/8''$  size. Grinding involves reduction of size below  $1/8''$ . Crushing is always conducted on dry ore while grinding may be wet or dry.
- (ii) **Sizing.**—This is the separation of material into various fractions having different sizes. This is achieved by screening or classifying. Classification depends on the relationship between the size of mineral particles and their settling velocity in a fluid medium.
- (iii) **Concentration.**—This is carried out by means of washers, sluice boxes, jigs, spirals, shaking tables, flotation cells, magnetic separators, electrostatic separators or other specific concentrating devices. Sometimes this can also be done by ordinary screens, classifiers, etc.
- (iv) **Dewatering.**—This is done in two stages:
  - (a) Thickener, which removes most of the water, and
  - (b) Filter, which removes the remaining water from the thickened pulp and produces a mineral cake.

The performance of any ore dressing procedure could be defined mathematically by the following two entities:—

1. **Recovery.**—This is defined as the ratio of the weight of the desired component in concentrate to the weight of the same component in the feed.
2. **Ratio of Concentration.**—This is defined as the number of units of weight of feed from which one unit weight of concentrate is produced.

**Principal Ore Dressing Processes.**—The following table shows the principal ore dressing operations which are used in commercial practice:—



#### CHAPTER VIII—MISCELLANEOUS

1. Every owner, agent or manager of a mine should permit students of mining and geological institutions in the country to study and acquire practice in the mines and plants operated by them and provide such students with facilities required for their training.

#### RATES OF ROYALTY UNDER THE MINERAL CONCESSION RULES<sup>1</sup>

S. R. O. 100 dated the 9th January 1956.—In pursuance of the first proviso to clause (i) of sub-rule (1) of rule 41 of the Mineral, Concession Rules, 1949 and of all other powers enabling it in this behalf, the Central Government hereby revises, with effect from the

<sup>1</sup> Published in the Gazette of India, 1956, Part II, Sec. 3, p. 34.

1st January 1955, the rates of royalty as in column 2 of the table below in respect of the minerals specified in column 1 thereof.

TABLE

Minerals 1	Revised rates 2
"Iron—	
(a) Used for extraction of iron within the country.	Five per cent of the sale value at the pit's mouth subject to a minimum of annas 8 per ton.
(b) Used for other purposes	Five per cent of the sale value at the pit's mouth subject to a minimum of Re. 1/- per ton."
"Manganese ore—	
(a) High grade (45 per cent Mn. and over)	Seven and a half per cent of the sale value at the pit's mouth, subject to a minimum of Rs. 1-8-0 per ton.
(b) Low grade (below 45 per cent Mn.)	Seven and a half per cent of the sale value at the pit's mouth, subject to a minimum of As. 12 per ton."
"Chromite—	
(a) 45 per cent Cr., O <sub>3</sub> and above	Seven and a half per cent of the sale value at the pit's mouth, subject to a minimum of Rs. 2-4-0 per ton
(b) Less than 45 per cent Cr., O <sub>3</sub>	Seven and a half per cent of the sale value at the pit's mouth, subject to a minimum of Rs. 1-2-0 per ton.
"Limestone—	Five per cent of the sale value at the pit's mouth, subject to a minimum of As. 6."
"Dolomite—	Five per cent of the sale value at the pit's mouth, subject to a minimum of As. 4 per ton."
"Graphite—	Seven and a half per cent of the sale value mouth.
"China Clay—	Seven and a half per cent of the sale value at the pit's mouth."
"Kyanite—	Seven per cent of the sale value at the pit's at the pit's mouth.'

## LAND ACQUISITION (MINES) ACT, 1885 (XVIII OF 1885)

### Statement of Objects and Reasons<sup>1</sup>

The object of this Bill is to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

Act XXII of 1863, which was replaced by the Land Acquisition Act, 1870, contained specific provisions (sections 51 and 52) for cases in which mines and minerals lay under land taken up under that Act. These provisions were not, however, re-enacted in the Act of 1870, which, as the Government is advised, contemplates the acquisition of the underlying minerals as well as the surface of the land.

Hitherto this state of the law has caused no inconvenience. Now, however, owing to its being proposed to extend railways across districts where there is a certain amount of coal to be found, notice has been drawn to the inconvenience of the existing law which practically compels the Government either to purchase all the mines and minerals under the land over which it is proposed to construct a line or to abandon the undertaking altogether.

Under these circumstances, the present Bill has been prepared. It does not, however, simply re-enact the provisions which Act XXII of 1863 formerly contained, inasmuch as they do not appear to be adopted to the circumstances of the case. It follows rather the rules contained in the English Railway Clauses Consolidation Act, 1845 (8 and 9 Vic., C. 20 Section 77) which it extends to the acquisition of land, for all purposes and not merely for the construction of Railways.

<sup>1</sup> Gazette of India, 1885, Part V, p. 145.

# LAND ACQUISITION (MINES) ACT, 1885 (XVIII OF 1885)

## Arrangement of Sections

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If appropriate Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Appropriate Government to pay compensation for injury done to mines;
10. and also for injury arising from any airway or other work.
11. Power to officer of appropriate Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, appropriate Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. [*Repealed.*]
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

## LAND ACQUISITION (MINES) ACT, 1885 (XVIII OF 1885)<sup>1</sup>

[16th October, 1885.]

*An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.<sup>2</sup>*

Whereas it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870<sup>2</sup>; it is hereby enacted as follows:—

**1. Short title, commencement and local extent.**—(1) This Act may be called the Land Acquisition (Mines) Act, 1885; and

(2) It shall come into force at once.

(3) It extends in the first instance to the <sup>3</sup>[States of <sup>4</sup>[Madras, Andhra], West Bengal, Bihar, Assam and Orissa]; but <sup>5</sup>[the Government of any other Part A State or of a Part C State] may, from time to time, by notification in the

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 145, see also p. 494 ante; for Report of the Select Committee, see *ibid.*, Pt. IV, p. 264; and for Proceedings in Council, see *ibid.*, Supplement, pp. 336 and 1520, and *ibid.*, Extra Supplement, dated 14th March, 1885, p. 41.

This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3; in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

<sup>2</sup> See now the Land Acquisition Act, 1894 (1 of 1894).

<sup>3</sup> Subs. by the A. O. 1948, for the original words and A. O., 1950.

<sup>4</sup> Subs. by the Andhra (Adaptation of Laws on Union Subjects) Order, 1954 (w.e.f. 1st October, 1953).

<sup>5</sup> Subs. by A. O., 1950 for "any other Provincial Government."

official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

**2. Saving for mineral rights of the Government.**—Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

**3. Declaration that mines are not needed.**—(1) When the “[appropriate Government]” makes a declaration under section 6 of the Land Acquisition Act, 1870,<sup>7</sup> that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870<sup>7</sup> and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

- (a) when he makes an award under section 14<sup>8</sup> of that Act, insert such a statement in his award;
- (b) when he makes a reference to the Court under section 15<sup>9</sup> of that Act, insert such a statement in his reference; or
- (c) when he takes possession of the land under section 17<sup>10</sup> of that Act, publish such a statement in such manner as the “[appropriate Government]” may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

**4. Notice to be given before working mines lying under land.**—If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the “[appropriate Government]” notice in writing of his intention so to do sixty days before the commencement of working.

**5. Power to prevent or restrict working.**—(1) At any time or times after the receipt of a notice under the last foregoing section and whether before or after the expiration of the said period of sixty days, the “[appropriate Government]” may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the “[appropriate Government]” that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the “[appropriate Government]” may publish<sup>11</sup> \* \* \* a declaration of its willingness, either—

<sup>6</sup> Subs. by A. O. 1950 for “Provincial Government.”

<sup>7</sup> See now Section 11 of the Land Acquisition Act, 1894 (I of 1894).

<sup>8</sup> See now Section 11, *ibid.*

<sup>9</sup> See now Section 19, *ibid.*

<sup>10</sup> See now Section 17, *ibid.*

<sup>11</sup> The words “in such manner as the G. G. in C. may, from time to time, direct” rep. by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).

- (a) to pay compensation for the mines or minerals still unworked or un-gotten, or that part thereof, to all persons having an interest in the same; or
- (b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the <sup>12</sup>[appropriate Government] may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the <sup>12</sup>[appropriate Government].

<sup>13</sup>[(5) Every declaration made under this section shall be published in such manner as the <sup>12</sup>[appropriate Government] may direct.]

**6. Mode of determining persons interested and amount of compensation.**—When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

**7. If appropriate Government does not offer to pay compensation, mines may be worked in a proper manner.**—(1) If before the expiration of the said sixty days, the <sup>12</sup>[appropriate Government] does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or if the <sup>12</sup>[appropriate Government] so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the <sup>12</sup>[appropriate Government] may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

**8. Mining communications.**—If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the <sup>12</sup>[appropriate Government] in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the

<sup>12</sup> Subs. by A. O. 1950.

<sup>13</sup> Ins. by S. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920).



same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

**9. Appropriate Government to pay compensation for injury done to mines.**—The <sup>14</sup>[appropriate Government] shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the <sup>14</sup>[appropriate Government] which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the <sup>14</sup>[appropriate Government] and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

**10. and also for injury arising from any airway or other work.**—If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the <sup>14</sup>[appropriate Government] shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

**11. Power to officer of appropriate Government to enter and inspect the working of mines.**—For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the <sup>14</sup>[appropriate Government] may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being or are about to be worked.

**12. Penalty for refusal to allow inspection.**—If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the <sup>14</sup>[appropriate Government] for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

**13. If mines worked contrary to provisions of this Act, appropriate Government may require means to be adopted for safety of land acquired.**—If it appears that any such mines have been worked contrary to the provisions of this Act, the <sup>14</sup>[appropriate Government] may, if it thinks fit give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the <sup>14</sup>[appropriate Govern-

<sup>14</sup> Subs. by A. O. 1950.

ment] may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

**14. Construction of Act when land acquired has been transferred to a local authority or Company.**—When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested, by operation of law, in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words “the appropriate Government”, wherever they occur in those sections <sup>15</sup>[except in section 5, sub-section (5), and section 8], the words “the local authority or Company, as the case may be, which has acquired the land,” were substituted.

**15. [Pending cases.]**—*Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

**16. Definition of local authority or Company.**—In this Act—

- (a) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with, the control or management of any municipal or local fund; and
- (b) “Company” means a company registered under any of the enactments relating to Companies from time to time in force in <sup>16</sup>[Part A States and Part C States] or formed in pursuance of an Act of Parliament <sup>17</sup>[of the United Kingdom] or by Royal Charter or Letters Patent.

<sup>18</sup>[(c) “appropriate Government” means, in relation to acquisition of land for the purpose of the Union, the Central Government, and, in relation to acquisition of land for any other purpose, the State Government.]

**17. This Act to be read with Land Acquisition Act, 1870.**—This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.<sup>19</sup>

## MINING LABOUR WELFARE LEGISLATION

### General Labour Welfare

The Factories Act, 1948, the Plantation Labour Act, 1951 and the Mines Act, 1952 contain provisions for canteens, creches, rest shelters, washing facilities, medical aid and also for appointment of Welfare Officers in industrial establishments employing prescribed numbers of workers.

### Mining Labour Welfare<sup>1</sup>

Considerable attention has been paid during the last several years to the provision of adequate welfare measures for the workers engaged in mining industry. As more than three-fourth of the total number of workers have been employed in coal mines, special attention was directed first to the welfare measures in coal mining industry by amending the Indian Mines Act, 1923 by an Amending Ordinance (XVII of 1945) and Amending Act of 1946 (II of 1946) for providing creches and pithead baths separately for men and women miners with shower

<sup>15</sup> Ins. by S. 2 and Sch. 1 of the Devolution Act, 1920 (XXXVIII of 1920).

<sup>16</sup> Subs. by A. O. 1950 for the words “the Provinces”.

<sup>17</sup> The words “of the United Kingdom” was inserted by A. O. 1950.

<sup>18</sup> This clause was added, *ibid.*

<sup>19</sup> See now the Land Acquisition Act, 1894 (1 of 1894).

<sup>1</sup> See Labour Investigation Committee, Main Report and Report of an Enquiry into the Conditions of Labour in Coal Mining in India by S. R. Deshpande (Delhi, 1946).

baths and locker rooms. The Coal Mines Labour Welfare Fund Ordinance (VII of 1944) was promulgated on the 31st January 1944, with the object of constituting a fund for financing of measures for promoting the welfare of labour employed in coal mining industry. The Ordinance was subsequently replaced by the Coal Mines Labour Welfare Fund Act on the 12th April, 1947. Next to coal mining, mica mining employs the largest number of workers and a beginning was also made by enacting the Mica Mines Labour Welfare Fund Act in 1946 (XXII of 1946) for the constitution of a similar fund for financing of activities to promote the welfare of labour employed in mica mining industry. These two Acts are concerned exclusively with the question of welfare of the workers in coal mining and mica mining industries and an integrated picture of their lives have been kept in view at the time of preparing schemes under these Acts. Their living conditions have been sought to be improved and they are taught to make best use of their leisure.

### **Coal Mines Pithead Bath Rules, 1946**

The Indian Mines Act of 1923 was amended by the Indian Mines (Amendment) Act of 1946 (II of 1946) authorising the Central Government to frame rules requiring the mine owners to provide and maintain, at or near the pithead, bathing places equipped with shower-baths and locker-rooms, separately for male and female workers employed in the coal mines, and to prescribe the minimum standards and number of such baths. Under this Amending Act, the Central Government framed the Coal Mines Pithead Bath Rules, 1946 on the 23rd July, 1946 which came into force on the 1st July, 1947.

### **Mines Creches Rules, 1946**

The Central Government promulgated the Indian Mines (Amendment) Ordinance in 1945 (XVII of 1945) amending the Indian Mines Act of 1923 empowering the Central Government to make rules regarding the maintenance in mines where women were ordinarily employed, of suitable rooms exclusively for use of their children under 6 years and to prescribe the standards and number of such rooms. Under this Amending Ordinance, the Central Government framed the Mines Creches Rules, 1946 on the 23rd July 1946 requiring the mine owners to provide for creches according to plans prepared in conformity with the Rules and constructed according to standards. The owner shall arrange for monthly medical examination of the children attending the creches and also of nursing mothers at prescribed intervals.

### **Coal Mines Labour Welfare**

With the increased demand for coal for wartime industrial production, there was a great demand for labour for mines and the Government realised the necessity to adopt welfare measures in order to increase the worker's productive efficiency. The Central Government promulgated the Coal Mines Labour Welfare Fund Ordinance (VII of 1944) to provide amenities for the miners and to promote their welfare. The Ordinance marked a new stage in welfare legislation in India as it introduced, for the first time, the principle of levying a cess on the output of an industry to finance welfare measures for the workers engaged in the said industry. The Ordinance provided for establishment of a Fund to finance welfare activities and accordingly the Government instituted a Coal Mines Labour Welfare Fund to undertake activities conducive to the welfare of the labour employed in coal mining industry. The Fund which was made up of a levy of excise duty at a rate not exceeding four annas per ton of coal and coke despatched by rail from the collieries, was to be utilised to meet the cost of measures for the improvement of nutrition and for the provision for water supply, facilities for washing, medical, educational and recreational facilities and for the general amelioration of the social

conditions of these miners. In short, the Fund will be utilised to meet expenditure on measures necessary or expedient to promote the welfare of labour employed in coal mining industry. The Ordinance authorised the Central Government to set up an Advisory Committee with equal representatives of owners and workers and a woman member to advise the Government on matters relating to the working and administration of the Fund.

#### **Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947)**

On the 11th March, 1947, the Government of India introduced Coal Mines Labour Welfare Fund Bill in the Legislative Assembly to make better provision for financing of measures for promoting the welfare of coal miners and to repeal the Coal Mines Labour Welfare Fund Ordinance, 1944. The Act was passed on 12th April, 1947 (XXXII of 1947) and came into force on 14th June, 1947. The Act has now been extended to the whole of India except the State of Jammu and Kashmir.

The Act provides for the levy of an excise duty at a rate not less than four annas and not more than eight annas per ton on all coal and coke despatched from collieries in India. It also provides, *inter alia*, for setting up of a Fund to be called Coal Mines Labour Housing and General Welfare Fund. The proceeds of the duty should be credited to Coal Mines Labour Housing and General Welfare Fund and apportioned under the two separate accounts to be called Housing Account and General Welfare Account. The Act specifies the measures which will be financed from each of these accounts. In pursuance of the provisions of the Act the Central Government imposed a cess at the rate of six annas per ton on all coal and coke despatched from collieries by rail and road during the year 1953-54 and the cess was apportioned between the General Welfare Account and the Housing Account in the ratio of 7:2.

#### **Welfare Measures**

The cess earmarked for General Welfare Account is wholly being spent in various welfare measures like establishment of hospitals, anti-malarial measures, public health, sanitation, adult education, propaganda, anti-tuberculosis, etc. The Act provides that the employers who provide dispensary services up to prescribed standards will be given grants-in-aid not exceeding an amount equivalent to a cess of eight pies per ton in respect of coal or coke despatched from the respective colliery or the amount actually spent by the employers, whichever is less. Where the employers have not provided adequate dispensary services, the Fund itself will assume this responsibility.

#### **Housing Measures**

The Act provides for constitution of a Coal Mines Housing Board to prepare and carry out approved schemes financed from the housing account of the Fund for provision of suitable housing accommodation for colliery labour. The Housing Board is to be a body corporate.

The Act lays down provisions regarding housing accommodation and payment of rent at the full prescribed rate or at a lesser rate as may be decided by the Housing Board. The rent is recoverable as an arrear of land revenue. Failure to vacate the accommodation within fifteen days of the service of notice to vacate, will make liable to eviction under the ordinary law.

#### **Coal Mines Labour Welfare Fund (Amendment) Act, 1949 (XXXVIII of 1949)**

The Act was amended in 1949 (XXVIII of 1949) with a view to enlarge the functions of the Housing Board. The Board is now vested with the power to prepare plans and estimates and construct the works of erection, maintenance and repairs financed from the General Welfare Account of the Fund.

### **Administration of the Fund**

The Act provides for appointment of Coal Mines Welfare Commissioner, Inspectors and Welfare Officers for the purpose of the administration of the Act. The Commissioner shall be Chairman of Coal Mines Labour Housing Board. The Act also provides for constitution of an Advisory Committee by the Central Government consisting of equal numbers of coal mine owners and coal miners for consultation and advice on matters referred to it in connection with the administration of the Act. The Chairman of the Advisory Committee will be an officer of the Central Government.

The Coal Mines Labour Welfare Organisation was set up with a Coal Mines Labour Welfare Commissioner, one Chief Welfare Officer, four Welfare Inspectors and 26 Assistant and Junior Assistant Inspectors of Labour Welfare. The Advisory Committee for welfare measures in coal mines was set up with seven Government officials, seven representatives of mine owners' associations and seven persons to represent the interests of the workers, with the Secretary, Ministry of Labour, Government of India, as Chairman.

### **Welfare in Coal Mines<sup>2</sup>**

The Central Hospital at Dhanbad was formally opened by the Central Labour Minister on the 6th December, 1951. Another Central Hospital at Asansol with 200 beds and well equipped with costly up-to-date equipments was opened by the West Bengal Chief Minister on the 9th April, 1955. Four Regional Hospitals and Maternity Centres in Jharia and Raniganj coal fields have been set up. Proposals for Regional Hospitals in the Bokaro coalfield in Bihar, Pench Valley and Korea coalfields in Madhya Pradesh are under consideration. Two T. B. clinics have been started at Katras and Searsole and quotas of beds for miners have been reserved in certain sanatoria.

There are a number of multi-purpose welfare centres in the coalfields which provide educational, recreational and other facilities. Several Miners' Institutes with Women's Welfare Centres, Children's Education Centres and Adult Education Centre have been set up. Apart from hospital and medical facilities, anti-malaria and sanitary measures, mobile cinema, canteens, fair price shops and radio sets are being provided.

Other schemes financed from the Fund include housing, the improvement of water supply and the establishment of a rehabilitation centre in the Dhanbad Hospital to assist disabled miners and to train them for alternate employment.

The Coal Mines Labour Welfare Fund has prescribed improved types of quarters for the workers engaged in coal mining industry and townships for the miners have been provided at Bhuli in Bihar and Bijohnagar in West Bengal. Provision has also been made for construction of miner's quarters in Dalta in Madhya Pradesh.

### **Coal Mines Lady Welfare Workers**

The Government of India has organised a preliminary training course for Coal Mines Lady Welfare Workers (Kamin Kalyan Sevikas) and it was inaugurated by the Labour Member on 28th May, 1947. The scheme of welfare work now undertaken provides for the establishment of 40 demonstration centres spread

<sup>2</sup> For the report of the activities financed during the year 1953-54 from the General Welfare Account of the Fund and the estimate of receipts into and expenditure from the General Welfare Account of the Coal Mines Labour Housing and General Welfare Fund for the year 1954-55, see the Ministry of Labour Notification No. S.R.O. 368 dated the 9th February, 1956, published in the Gazette of India, Part II, Sec. 3 dated the 18th February, 1956, pp. 200-228.

out suitably over the coalfields of Bengal and Bihar. These centres will help women miners in gaining knowledge of special craft, *e.g.*, spinning, knitting, domestic economy, etc., and also arrange for recreational and educational facilities.

### **Mica Mines Labour Welfare**

There are over 60,000 miners working in mica mines and the working and living conditions there are most deplorable as per finding of the Labour Investigation Committee in 1946. An *ad hoc* survey was made by a member of the Labour Investigation Committee in Mica Mining and his Report made a number of recommendations including working out of a comprehensive welfare scheme designed to improve the standard of living of the workers and to secure for them the requisite housing, educational, medical and other facilities. After the publication of the Report, the Government of India thought the urgent necessity of initiating legislative scheme of welfare measures for amelioration of the living and working conditions of the labour employed in mica mining industry.

### **Mica Mines Labour Welfare Act, 1946 (XXII of 1946)**

After consulting the matter with the mine owners, the Government of India introduced a Bill in the Legislative Assembly on 12th March, 1946 to constitute a fund for financing the activities for promoting the welfare of labour employed in mica mining industry and the Mica Mines Labour Welfare Fund Act was passed in 1946 (XXII of 1946). The Act has now been extended to the whole of India except the State of Jammu and Kashmir.

The Act provides for a levy of cess on all mica exported from India, at a rate not exceeding six and one quarter per cent *ad valorem* as may be fixed from time to time by the Central Government. During the year 1953-54 the rate is two and one half per cent *ad valorem*.

### **Mica Mines Labour Welfare Fund**

The Act provides for constitution of the Mica Mines Labour Welfare Fund to which the cess collected as aforesaid will be credited to meet the expenditure incurred in connection with the measures for promoting the welfare of the labour employed in mica mining industry, such as, the provisions for public health, sanitation, medical facilities, water supplies, adequate nutrition, housing, transport to and from work, educational and recreational facilities and for general improvement of social conditions. The Fund will be administered by the Central Government which, in consultation with the Advisory Committees set up under the Act with an equal number of representatives of mica mine owners and workers employed there, may make grants to State Government, local authority or owner of mica mine in aid of any approved welfare scheme.

### **Rules under the Act**

By a Notification dated the 2nd January 1948, the Central Government framed Rules for the administration of the Act and set up two Advisory Committees, including representatives of owners and workers, in Bihar and Madras to advise it on matters arising out of the administration of the Act or the Fund. Amendments to the Rules were made in January 1952 to provide for the constitution of Advisory Committees for the States of Rajasthan and Ajmer and Advisory Committees for these two States were set up.

### **Welfare in Mica Mines <sup>a</sup>**

The activities of the Mica Mines Labour Welfare Fund at present cover miners in the States of Bihar, Andhra, Rajasthan and Ajmer.

<sup>a</sup> For the activities financed from the Mica Mines Labour Welfare Fund for the year 1954-55 and for the estimate for the year 1955-56, see the *Gazette of India*, Part II, Section 3, dated 26th November, 1955, page 2296, under Ministry of Labour Notification No. S.R.O. 3560 dated the 22nd November, 1955 and also Indian Labour Gazette, Volume XIII, (1955-56), December, 1955, page 420.

### 1. BIHAR.

As regards medical facilities, a 30-bed Central Hospital for mica miners has been constructed at Karma in Bihar and was declared open for the use of mica mine workers on the 27th November, 1954. Reservation of 10 beds at the Kodarma Hospital for the mica mine workers on payment of an annual grant of Rs. 13,000/- has been made and this arrangement is being continued. The Fund continued running 3 Static Dispensaries at Dhab, Dhorakola and Ganpathbaghi. Two Mobile Medical Units stationed at Karma and Dhorakola served workers and their families who could not take advantage of the dispensaries on account of distance and lack of proper communications. The Fund is arranging to construct its own dispensary with staff quarters and maternity and child welfare centres at Dhab, Dhorakola and Ganpathbaghi. The construction of the dispensary building at Dhab has been completed. The scheme of anti-malarial operations is being implemented. A supplementary scheme for insecticidal spraying in Dabour, Dhorakola and Dhab area has been implemented. Three wells have been constructed for supply of drinking water at Saphi, Dhorakola and Khalaktambi. The Assistant Geologist of the Geological Survey of India recommended 22 sites for construction of wells under the subsidiary scheme. The Mobile Cinema van is showing pictures as well as informative and educative films. An additional mobile cinema has been sanctioned. The Multipurpose Centre composed of an Adult Education Centre and the Women's Welfare Centre was opened at Dabour and is affording educational, recreational and other facilities to the mica mine workers and their families. Six primary schools were sanctioned for the mining area. A sum of Rs. 5,000 was sanctioned for organising competitive sports. An order for 16 radio sets for the workers' recreation have been placed with the Director-General of Supplies and Disposals.

### 2. ANDHRA.

Three dispensaries for mica miners have been started at Kalichedu, Talupur and Sydapuram and an in-patient ward with 8 beds was opened at the dispensary at Kalichedu. Two beds in the Government Headquarters Hospital at Nellore and one bed in the Government Hospital, Gudur, have been reserved for the exclusive use of mica mine workers. The Fund contributed Rs. 15,000 to the Tuberculosis Hospital, Nellore, for reservation of 8 beds for the exclusive use of mica mine workers. Four Maternity Centres have been opened at Talupur, Kalichedu, Utukur and Sydapuram. The Lady Health Visitor visits the houses of labourers and instructs women on health, sanitation, child welfare, post-natal and anti-natal precautions. Anti-malaria schemes have been in operation. Six Elementary Schools and five Adult Literary Schools have been functioning and midday meals are being supplied to the children in schools. Recreation Clubs and Radio Centres have been opened and Community Centres are being formed to educate women labourers on home science, child welfare, sanitation, hygiene and also to teach them handicrafts such as sewing, tape weaving, spinning, mat-making, etc.

### 3. RAJASTHAN

The Mica Mines Welfare Fund Advisory Committee for Rajasthan decided to open eight multi-purpose welfare centres providing medical, educational and recreational facilities to men, women and children. Four "B" class Centres consisting of a dispensary and a maternity and child-welfare centre were started at Bemali, Lawa-Sardargarh and Jamoli. Four "C" class Centres of Mobile Medical Units and one additional "B" class Centre and two "A" class Centres comprising of a Dispensary, Maternity and Child Welfare, Recreation, Elementary School and water supply and one Mobile Cinema Unit were sanctioned.

4. AJMER

A Mobile Medical Unit to provide medical aid to the miners is being established. A subsidy of Rs. 2,000/- was granted to the villagers for construction of a school building at village Dadola and the school building was completed. Establishment of two Multi-purpose Welfare Centres at Para and Sanod for providing medical, educational, maternity and child welfare facilities, were sanctioned. One centre at Para was established in November, 1954 and another in village Sanod is being constructed. A proposal for establishing an industrial centre at Beawar is under consideration.

COAL MINES PITHEAD BATH RULES, 1946

Arrangement of Paragraphs

1. Short title and commencement.
2. Definitions.
3. Provision of pithead baths.
4. Standards of construction for pithead baths.
5. Water for pithead baths.
6. Lighting.
7. Attendants.
8. Locker rooms.
9. Sanitary facilities.
10. Cleanliness.
11. Authority empowered to inspect.

COAL MINES PITHEAD BATH RULES, 1946<sup>1</sup>

In exercise of the powers conferred by sub-section (bbb) of section 30 of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following rules:—

1. **Short title and commencement.**—(1) These rules may be called the Coal Mines Pit-head Bath Rules, 1946.

<sup>2</sup>[(2) They extend to the whole of India except the State of Jammu and Kashmir].

2. **Definitions.**—(a) "Prescribed" means prescribed in writing by the competent authority;

(b) (i) "Category 'A' mine" means a coal mine, the average monthly output of which exceeds 500 tons but does not exceed 2,500 tons.

(ii) "Category 'B' mine" means a coal mine, the average monthly output of which exceeds 2,500 tons but does not exceed 10,000 tons.

(iii) "Category 'C' mine" means a coal mine, the average monthly output of which exceeds 10,000 tons but does not exceed 20,000 tons.

(iv) "Category 'D' mine" means a coal mine, the average monthly output of which exceeds 20,000 tons.

**Explanation.**—The average monthly output of a mine shall be calculated on the basis of the figures of coal raisings for the previous calendar year.

(c) "competent authority" means the Coal Mines Welfare Commissioner or any person authorised in writing by him in this behalf.

<sup>1</sup> These Rules were published under the Government of India, Department of Labour Notification No. LMW. 5 (5)/46 dated the 23rd July 1946.

<sup>2</sup> This sub-rule was substituted by the Ministry of Labour Notification No. S.R.O. 1778 dated the 12th November, 1951.



(d) "pithead bath" means a bathing place at or near a pithead for the use of miners equipped with shower baths, locker rooms and ancillary facilities, such as latrines, urinals and attendants' rooms.

3. **Provision of pithead baths.**—(1) The owner, agent or manager of every coal mine shall within such period as may be specified by the competent authority construct thereat a pithead bath in accordance with plans prepared in conformity with these rules and approved by the competent authority; provided that—

- (i) the competent authority may, in exceptional cases, with the concurrence of the Government of India, grant exemption from this requirement to mines the resources of which are not sufficient to enable them to make provision for adequate supply of water for pithead baths;
- (ii) the competent authority may grant exemption in respect of any mine, on production of a certificate from the Chief Inspector of Mines that its productive capacity will be exhausted within the next three years, subject to such conditions as may be prescribed requiring the provision of alternative bathing facilities of a temporary character;
- (iii) in a mine with a number of openings, the owner, agent or manager may instal more pithead baths than one, provided that the total number of shower baths installed and of latrines and urinals provided shall not be less than is required to conform with sub-rule (2) of this rule and with rule 9.
- (iv) if the competent authority is satisfied that no inconvenience will be caused to the miners concerned if a single pithead bath is provided to serve neighbouring mines of category 'A' or 'B', he may authorise the owners of such mines to provide a single pithead to serve such mines, which shall for the purposes of sub-rule (3) be deemed to be a single mine with an average monthly output equal to the combined average monthly output of the individual mines.

3(2) \* \* \* \*

4[(2)] Every pithead bath shall be provided with shower baths on the following scale:—

Category 'A' mine:	10 for men and 4 for women.
Category 'B' mine:	20 for men and 8 for women.
Category 'C' mine:	24 for men and 10 for women.
Category 'D' mine:	40 for men and 16 for women.

4. **Standards of construction for pithead baths.**—Every pithead bath shall conform to the following standards of construction:—

- (i) It shall be a well-designed and substantially constructed building with separate bath cubicles and ancillary facilities for men and women, so laid out as to provide proper segregation of the sexes.
- (ii) It shall be built in brick-in-cement mortar with a roof of cement concrete or corrugated asbestos cement sheets or tiles, or to conform to any other type of prescribed construction.
- (iii) The floors and any interior surface of the walls which are liable to become wet shall be cement plastered with special finish, or tiled, or finished in any other prescribed manner so as to provide an impervious and clean surface, provided that the walls need be so treated only up to a height of six feet from floor level.
- (iv) Each bath cubicle shall be designed for the use of one person at a time only and shall have a floor area of not less than twelve square feet and shall contain a shower bath with proper fittings for turning the water on and off.

Provided that in the case of a pithead bath which was in existence prior to the issue of these rules, the competent authority may permit the continued use of bath cubicles for the use of more than one person if the floor area provided in respect of each shower bath is not less than twelve square feet.

5. **Water for pithead baths.**—(1) Water shall be provided at a pressure equivalent to a head of not less than ten feet at the shower.

(2) When pit water is used, it shall be treated in the prescribed manner before use.

(3) Proper arrangements shall be made to the satisfaction of the competent authority for the drainage or disposal of used bath water.

3 Sub-rule (2) was omitted by the Ministry of Labour Notification No. S.R.O. 1204 dated the 28th May, 1955.

4 Sub-rule (3) re-numbered as sub-rule (2), *ibid.*

6. **Lighting.**—Every pithead bath shall remain open at all times of the day and night and the prescribed provision shall be made for lighting.

7. **Attendants.**—(1) At every pithead bath the owner, agent or manager shall appoint a male attendant and a female attendant to supervise the pithead baths intended for men and women respectively.

(2) Separate rooms shall be provided close to the bathing cubicles for the use of male and female attendants.

8. **Locker rooms.**—(1) Separate locker rooms for clean and pit clothes respectively shall be provided at each pithead bath with the prescribed type of locker installed for the use of each man and woman entitled to use the bath: Provided that until such time as the competent authority so directs in writing combined locker and waiting rooms of adequate size may be provided for men and women respectively in lieu of separate locker rooms for clean and pit clothes.

(2) The owner, agent or manager of the mine shall be responsible for the adequate maintenance of locker rooms and shall provide suitable washing arrangements for pit clothes.

(3) Each miner to whom a locker is allotted shall provide his own padlock and key therefor.

(4) The locker room shall be maintained at all times in a clean and sanitary condition.

9. **Sanitary facilities.**—(1) Every pithead bath shall be provided with sanitary latrines on the following scale:—

Category 'A' mine: 4 for men and 2 for women.

Category 'B' mine: 6 for men and 3 for women.

Category 'C' mine: 8 for men and 4 for women.

Category 'D' mine: 14 for men and 5 for women.

(2) Every pithead bath shall be provided with urinals on the scale of one for every fifty persons employed in the mine.

10. **Cleanliness.**—(1) All bath cubicles, locker rooms, latrines and urinals shall be maintained at all times in a clean and sanitary condition;

(2) The owner, agent or manager of the mine shall make arrangements for the sale at each pithead of soap and mustard oil at a price not exceeding what the owner has paid therefor.

11. **Authority empowered to inspect.**—The competent authority shall be responsible for the inspection of the pithead baths and for ensuring that the provisions of these rules are complied with.

## MINES CRECHE RULES, 1946

### Arrangement of Paragraphs

1. Short title.
2. Definitions.
3. Provision of creches.
4. Standards of creches.
5. Use of the creche.
6. Medical arrangements.
7. Provision of staff.
8. Maintenance of records.
9. Inspection of creches.

## MINES CRECHE RULES, 1946<sup>1</sup>

In exercise of the powers conferred by sub-section (bb) of section 30 of the Indian Mines Act, 1923 (IV of 1923), the Central Government is pleased to make the following rules:—

1. **Short title.**—(1) These rules may be called the Mines Creche Rules, 1946.

<sup>2</sup>[(2) They extend to the whole of India except the State of Jammu and Kashmir.]

<sup>1</sup> These Rules were published under the Government of India, Department of Labour Notification No. LMW. 5(7)/46 dated the 23rd July, 1946.

<sup>2</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 1777 dated the 13th November, 1951.

**2. Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

(a) "Competent authority" means, in respect of coal mines, the Coal Mines Welfare Commissioner and in respect of other mines, the Chief Inspector of Mines, and includes any person authorised in writing by the said Commissioner or Inspector in this behalf;

(b) "Creche" means a room or rooms with ancillary accommodation reserved for the use of children, under six years of age, of women employed in a mine.

(c) "Medical Officer in charge" means a qualified medical practitioner employed whether on a whole time or part time basis, by the owner of a mine to perform the duties assigned to such officer by these rules.

**3. Provision of creches.**—(a) The owner of every mine shall construct thereat a creche in accordance with plans prepared in conformity with these rules and previously approved by the competent authority.

Provided that where the competent authority is of the opinion that the situation, nature and extent of the workings or other places where women are employed are such as to render compliance with the provisions of this Rule not reasonably practicable, the competent authority may by order in writing exempt any owner of a mine from the provisions of this rule for such period as may be specified in the order.

Provided further that where an exemption is granted under this Rule, the competent authority may require a suitable room or rooms with an attendant and other necessary equipments to be provided and maintained at or near any working place or part of the mine.

(b) Such creche shall be constructed within nine months of the date of publication of these rules, provided that where land has to be acquired for the purpose, the competent authority may extend the time limit to a period not exceeding twelve months from the said date.

(c) If in any case the competent authority is satisfied that by reason of a shortage of building material or of labour the owner of a mine is unable to provide within nine months a creche in accordance with the specifications in these rules, he may approve of the erection of a temporary structure to be replaced by a permanent structure within such time as he may prescribe.

(d) If in any case the competent authority is satisfied that no inconvenience will be caused to the employers concerned, if a single creche is provided to serve neighbouring mines, he may authorise the owners of such mines to provide jointly a single creche and on such conditions as he may prescribe.

<sup>3</sup>[(e) On the production of a certificate from the Chief Inspector of Mines that the productive capacity of a mine will be exhausted within the next three years, the competent authority may on condition that the owner of the mine shall provide a creche and on such other conditions as the competent authority deems fit grant exemption from the construction of a creche in accordance with these rules].

**4. Standards of creches.**—Every creche shall conform to the following standards of construction:—

(i) It shall be contained in one building, built of brick and mortar, adequately lighted and properly ventilated and affording effective protection from all kinds of weather;

<sup>4</sup>[Provided that with the previous permission in writing of the competent authority, it may be built of any other material which the said authority may approve].

(ii) It shall be constructed on a suitable site selected by the colliery management with the previous approval of the competent authority;

(iii) The flooring shall be of cement or stone and the ceiling shall not be less than 12 feet high from the floor;

(iv) The interior walls shall be lime-washed once a year and the wood work shall be painted or varnished once every three years;

(v) It shall be maintained in a clean and sanitary condition to the satisfaction of the inspection staff;

(vi) Medicines for first aid, and a number of cradles or beds, bed-sheets, linen, bedding, feeding bottles, utensils and toys for the use of children shall be

<sup>3</sup> Inserted by the Ministry of Labour Notification No. LW51(10)/48 dated the 16th November, 1949.

<sup>4</sup> The provisio was added, *ibid.*

maintained for each creche, on a scale approved by the competent authority, provided that if the competent authority is satisfied that the owner of any mine is for good reasons unable to provide an adequate number of articles mentioned in the rule, he may condone the deficiencies;

- (vii) The latrines shall be maintained on a scale prescribed by the competent authority and in a sanitary condition to the satisfaction of the inspecting staff and the closed bath room shall be equipped with either a sink or masonry tubs with an adequate quantity of water on a scale approved by the competent authority;
- (viii) A supply of drinking water shall be maintained for each creche on a scale approved by the competent authority;
- (ix) The creche shall remain open at all times, both by day and by night when women employees are working at the mine and it shall be properly lighted at night.

**5. Use of the creche.**—The use of the creche shall be restricted to children, their attendants, the supervisory staff and the mothers of the children, and no male worker shall be permitted to enter a creche.

**6. Medical arrangements.**—(1) A medical examination of the children attending the creche shall be made every month by a qualified medical practitioner and a record of such examinations shall be maintained.

(2) At intervals prescribed by the competent authority, a medical examination of the nursing mothers attending the creche shall be made by a qualified medical practitioner, if possible a woman, and when the examination is conducted by a male doctor it shall be made in the presence of the creche nurse.

(3) The Medical Officer in charge of the mine shall be responsible for the general supervision of the creche.

**[7. Provision of staff.**—At every creche the owner of the mine shall appoint

- (i) a Creche-in-charge who shall be a woman possessing such qualifications and training as may be approved of by the competent authority, and
- (ii) inferior staff on a scale approved by the said authority].

**8. Maintenance of records.**—(a) A register giving particulars of children attending a creche, including their dates of birth, shall be maintained in the form prescribed by the competent authority.

(b) A register of complaints shall be maintained for inspection by the Medical Officer in charge and by the management of the colliery.

**9. Inspection of creches.**—The competent authority shall be responsible for the inspection of creches at mines.

## COAL MINES LABOUR WELFARE FUND ACT, 1947 (XXXII OF 1947)

### Statement of Objects and Reasons<sup>1</sup>

The Coal Mines Labour Welfare Fund Ordinance promulgated in 1944 provides for the levy of an excise duty at a rate not exceeding Re. -/4/- per ton of coal and coke despatched from collieries in British India. The proceeds making up the Fund are earmarked exclusively for promoting the welfare of labour employed in the coal-mining industry. The Government of India are now satisfied that for reasons explained below, the limit of this cess should be further increased, the maximum being raised to Re. -/8/- per ton on all despatches of coal and coke.

2. The present housing conditions in the coalfields are extremely unsatisfactory. No other scheme of welfare can be given higher 'priority'. Government do not consider that the housing problem can be tackled piecemeal. In their opinion a target figure of 50,000 houses for miners should be the aim of the housing scheme in the coalfields and that provision should be made for 15,000 houses to be completed before the end of the next financial year.

3. Careful calculations have been made in the light of prevalent costs and it is reckoned that by levy of a cess at Re. -/3/4 per ton of coal and coke and a subsidy of Rs. 400 per house from the general revenues, adequate funds will be forthcoming for financing a

<sup>5</sup> Subs. by Notification No. LW 51(10)48 dated the 16th November, 1948.

<sup>1</sup> Gazette of India, 1947, Part V, pp. 317-318.

comprehensive housing scheme of 50,000 houses. There are various other welfare measures like establishment of hospitals, anti-malarial measures, public health and sanitation, adult education propaganda, anti-tuberculosis, etc., which will absorb, when all the schemes are in final form, practically the whole of the present limit of cess of Re. -/4/- per ton. Therefore, an increase in this limit is urgently required to provide funds for the housing scheme. The Bill provides that when the rate of cess reaches the maximum of Re. -/8/- per ton not less than Re. -/3/4 thereof will be earmarked to a separate housing fund.

4. Colliery owners have in many cases provided dispensary services for the benefit of the miners employed by them and the employers' responsibility in this direction is well recognized. But with the establishment of Central and Regional Hospitals by the Coal Mines Welfare Fund a tendency is likely to arise by which the responsibility for providing dispensary services will be shifted on to the Fund in the absence of any statutory provision requiring the employer to provide such facilities. A provision has, therefore, been made in the Bill by which employers who provide dispensary services up to standards prescribed will be given the grants-in-aid not exceeding the amount equivalent to a cess of 8 pies per ton in respect of coal or coke despatches from the respective colliery or the amount actually spent by the employer whichever is less. Where employers have not provided adequate dispensary services, the Fund will itself provide them and to meet this expenditure as well as the costs of grants-in-aid to the employers, a further levy of a cess equivalent to 8 pies per ton is necessary. This is estimated to yield approximately Rs. 9 lakhs a year which should ensure reasonably efficient dispensary services, it being noted that the existing cess will provide funds in addition for the larger hospital schemes.

5. The result of these measures is that the limit of the cess should be raised to Re. -/8/- per ton. It is not, however, intended to levy this maximum rate forthwith, and during the year 1947-48, it is not proposed to levy a total cess in excess of Re. -/6/- per ton. Thereafter, with the further progress in the housing scheme, rates will have to be increased gradually and up to the maximum of Re. -/8/-.

6. The cost of construction is expected to average Rs. 2,500 per house for which the economic rent may be as high as about Rs. 14 a month. Miners have, by tradition, occupied quarters, where provided, rent-free and it is not, at present, intended to levy a rent or at any rate more than a nominal rent from the occupants. Some provision is, therefore, necessary in order to ensure that the houses constructed by the Fund are occupied only by genuine and steady workers and that those who cease to be so, do not continue to occupy the houses rent-free or on nominal rent. The details regarding these will be discussed with representatives of employers and workers who will be associated with the administration of the Housing Fund. But as a precautionary measure a legal provision has been included for summary recovery of rent at full rates in addition to the liability under the ordinary law, for eviction.

## **COAL MINES LABOUR WELFARE FUND (AMENDMENT) ACT, 1949 (XXXVIII OF 1949)**

### **Statement of Objects and Reasons<sup>2</sup>**

The main function of the Housing Board constituted under the Coal Mines Labour Welfare Fund Act, 1947, is to prepare and carry out approved schemes financed from the housing account of the Fund for the provision of suitable housing accommodation for colliery labour. Various other building works, for example, central and regional hospitals and maternity and child-welfare centres, financed from the general welfare account of the Fund are also under construction, the control of which, it is considered, should be vested with the Housing Board. The Bill provide for this object.

## **COAL MINES LABOUR WELFARE FUND ACT, 1947 (XXXII OF 1947)**

### **Arrangement of Sections**

1. Short title, extent and commencement.
2. Interpretation.
3. Imposition and collection of duty.
4. Coal Mines Labour Housing and General Welfare Fund.
5. Expenditure from the Fund.

<sup>2</sup> Gazette of India 1949, Part V, pp. 43-44.

6. Coal Mines Labour Housing Board.
7. Provisions regarding housing accommodation.
8. Advisory Committee.
9. Appointment and powers of officers.
10. Power to make rules.
11. Repeal of Ordinance VII of 1944.

**COAL MINES LABOUR WELFARE FUND ACT, 1947 (XXXII OF 1947)<sup>1</sup>**

[18th April, 1947]

*An Act to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry*

Whereas it is expedient to make better provision for financing measures for promoting the welfare of labour employed in the coal-mining industry, including housing and the provision of dispensary services, and for such purposes to impose a cess and constitute a fund;

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Coal Mines Labour Welfare Fund Act, 1947.

(2) It extends to the whole of India <sup>2</sup>[except the State of Jammu and Kashmir.]

(3) It shall come into force on such date<sup>3</sup> as the Central Government may, by notification in the official Gazette, appoint.

**2. Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Advisory Committee” means the Advisory Committee constituted under section 8;

(b) “Commissioner” means the Coal Mines Labour Welfare Commissioner appointed under section 9, and includes any officer authorised in writing by the Commissioner to exercise any of his functions under this Act;

(c) “Housing Board” means the Coal Mines Labour Housing Board constituted under section 6;

(d) “Fund” means the Coal Mines Labour Housing and General Welfare Fund constituted under section 4;

(e) “prescribed” means prescribed by rules made under this Act.

**3. Imposition and collection of duty.**—(1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise on all coal and coke despatched from collieries in <sup>4</sup>[the territory to which this Act extends], at such rate not less than four annas and not more than eight annas per ton, as may from time to time be fixed by the Central Government by notification in the official Gazette:

Provided that the Central Government may, by notification in the official Gazette, exempt from liability to the duty any specified class or classes of coal or coke.

<sup>1</sup> For Statement of Objects and Reasons, see the Gazette of India, 1947, Part V, 317-318. see also page 509 ante.

<sup>2</sup> These words were substituted for the words “except Part B States” by the Part B States (Laws) Act, 1951 (III of 1951).

<sup>3</sup> The Act has come into force from 14th June, 1947.

<sup>4</sup> These words were substituted for the words “Part A States and Part B States” by the Part B States (Laws) Act, 1951 (III of 1951).

(2) The duty levied under sub-section (1) shall, subject to and in accordance with rules made in this behalf, be collected by such agencies and in such manner as may be prescribed.

**4. Coal Mines Labour Housing and General Welfare Fund.**—(1) The proceeds of the duty levied under section 3 shall be paid by the collecting agencies into Reserve Bank of India at Calcutta in the prescribed manner, and shall be credited to a fund to be called the Coal Mines Labour Housing and General Welfare Fund, and apportioned under two separate accounts, to be called the housing account of the Fund and the general welfare account of the Fund, in such manner as the Central Government from time to time may, by notification in the official Gazette, determine:

Provided that there shall at all times be credited—

- (a) to the housing account of the Fund, not less than one anna and four pies, and
- (b) to the general welfare account of the Fund, not more than four annas and eight pies,—

out of the duty collected under this Act on every ton of coal or coke.

(2) There shall also be credited to the housing account of the Fund—

- (a) any grants made thereto by the Central Government;
- (b) rents, if any, realised from housing accommodation constructed out of such account;
- (c) any other moneys received by the Housing Board.

**5. Expenditure from the Fund.**—(1) The cost of administering the Fund and the salaries and allowances, if any, of the Commissioner, Inspectors, Welfare Officers and other staff appointed to supervise or carry out measures financed from the Fund shall be defrayed out of the Fund, and shall be apportioned between and debited to the housing account and the general welfare account in such manner as may be prescribed.

(2) The Central Government may out of the general welfare account of the Fund pay annually grants-in-aid to such of the colliery owners as maintain to the satisfaction of the Commissioner dispensary services of the prescribed standard for the benefit of labour employed in their collieries, so however that the amount payable as grant-in-aid to the owner of a colliery shall not exceed—

- (i) the amount of the duty at the rate of eight pies per ton recovered in respect of coal or coke despatched from the colliery less the proportionate cost of recovery, or
- (ii) the amount spent by the owner of the colliery in the maintenance of the dispensary service, as determined by the Commissioner,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any dispensary service maintained by the owner of the colliery if the amount expended thereon, as determined by the Commissioner, is less than eighty rupees per mensem.

(3) The balance of the moneys in the general welfare account of the Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures which are in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the coal-mining industry.

(4) Without prejudice to the generality of sub-section (3) the moneys in the general welfare account of the Fund may be utilised to defray—

- (a) the cost of measures for the benefit of labour employed in the coal-mining industry directed towards—

- (i) the improvement of public health and sanitation, the prevention of disease, the provision of medical facilities and the improvement of existing medical facilities, including the provision and maintenance of dispensary services in collieries the owners of which do not receive grants-in-aid under sub-section (2),
- (ii) the provision of water-supplies, and facilities for washing and the improvement of existing supplies and facilities,
- (iii) the provision and improvement of educational facilities,
- (iv) the improvement of standards of living, including nutrition, amelioration of social conditions, and the provision of recreational facilities,
- (v) the provision of transport to and from work;
- (b) the grant to a Provincial Government, a local authority or the owner, agent or manager of a coal mine of money in aid of any scheme approved by the Central Government for any purpose for which moneys in the general welfare account of the Fund may be utilised;
- (c) the allowances, if any, of the members of the Advisory Committee and the amounts debitable to the account under sub-section (1);
- (d) any other expenditure which the Central Government directs to be defrayed out of the moneys in the general welfare account of the Fund.

(5) The Central Government shall publish annually in the official Gazette an estimate of receipts into and expenditure from the general welfare account of the Fund together with a statement of the accounts and a report of the activities financed during the previous year from the general welfare account of the Fund, and shall forward copies of such statement and report to members of the Advisory Committee.

(6) The moneys in the housing account of the Fund shall be applied by the Housing Board to defray—

- (a) the cost of erecting, maintaining and repairing housing accommodation for labour employed in the coal-mining industry and of providing services and facilities connected therewith;
- (b) the cost of preparing schemes, and of acquiring any land required, for the purposes referred to in clause (a);
- (c) the grant, subject to the previous approval of the Central Government, to a State Government, a local authority or the owner, agent or manager of a coal mine of money in aid of any scheme approved by the Housing Board for the purposes referred to in clauses (a) and (b);
- (d) the allowances, if any, of members of the Housing Board and the amounts debitable to the account under sub-section (1);
- (e) any other expenditure which the Central Government directs to be defrayed out of the moneys in the housing account of the Fund.

(7) In February of each year the Housing Board shall submit to the Central Government a statement in the prescribed form of the estimated receipts into and expenditure from the housing account of the Fund for the ensuing financial year together with a report of the activities financed during the previous year from the housing account of the Fund, and may at any time during the ensuing financial year submit to the Central Government a supplementary statement and shall forward copies of such statements and report to members of the Advisory Committee.



(8) The Housing Board shall comply with such directions as the Central Government may from time to time think fit to give in respect of expenditure from the housing account of the Fund.

(9) The Housing Board may invest moneys in the housing account of the Fund in securities of the Government of India or, with the previous approval of the Central Government, in other securities.

(10) The Housing Board shall cause to be maintained such books of account as may be prescribed and shall prepare in the prescribed manner an annual statement of the accounts.

(11) The Housing Board shall cause the housing account of the Fund to be audited annually by a person qualified under the provisions of section 144 of the Indian Companies Act, 1913 (VII of 1913), to act as an auditor of companies, and as soon as the said account has been audited the Housing Board shall forward copies thereof together with copies of the report of the auditor thereon to the Central Government and to members of the Advisory Committee.

(12) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the housing account, or the general welfare account, of the Fund, and its decision shall be final.

(13) Before incurring any expenditure from the Fund other than expenditure of a routine or urgent nature the Central Government or, as the case may be the Housing Board, shall consult the Advisory Committee.

**6. Coal Mines Labour Housing Board.**—<sup>4</sup>[(1) The Central Government shall, by notification in the official Gazette, constitute a Coal Mines Labour Housing Board for the following purposes, namely:—

(a) to prepare and carry out, subject to the previous approval of the Central Government, schemes financed from the housing account of the Fund for the provision of suitable housing accommodation for labour employed in the coal mining industry;

(b) to prepare plans and estimates for, and construct or carry out, such works of erection, maintenance and repair financed from the general welfare account of the Fund as the Central Government may, by general or special order, specify; and

(c) to carry out any other functions assigned to the Housing Board by or under this Act.]

(2) The Commissioner shall be the Chairman of the Housing Board, and the other members thereof shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed.

(3) The Housing Board shall be a body corporate by the name of the Coal Mines Labour Housing Board, having perpetual succession and a common seal, with power to acquire property both movable and immovable, and shall by the said name sue and be sued.

(4) No act done by the Housing Board shall be called in question on the ground merely of the existence of any vacancy in, or defect on the constitution of, the Housing Board.

**7. Provisions regarding housing accommodation.**—(1) The occupation by any person of any housing accommodation provided out of the housing account of the Fund shall be subject to compliance by that person at all times with such conditions relating to his occupation of such accommodation as may be prescribed.

(2) Before any person occupies any such accommodation he shall be furnished with a copy of the conditions referred to in sub-section (1), and if he so

<sup>4</sup> This sub-section was substituted by Section 2 of Coal Mines Labour Welfare Fund (Amendment) Act, 1949 (XXVIII of 1949).

desires the said conditions shall be read over to him in a language which he understands; and the Housing Board shall cause to be published in such manner as it thinks best adapted for informing the persons concerned any changes which may from time to time be made in the said conditions.

(3) If, in the opinion of the Housing Board, any person in occupation of any such accommodation fails or ceases to comply with any of the conditions referred to in sub-section (1) it may, by notice in writing, require him to vacate the accommodation on or before such date, not being less than thirty days after the service of the notice, as may be specified in the notice; and the occupation of such accommodation by such person or any dependent of his after the date so specified shall be unlawful, and such person or dependent may be evicted accordingly by due process of law from such accommodation.

(4) There shall be payable in respect of the occupation of any such accommodation as aforesaid rent at such rate as may be prescribed:

Provided that the Housing Board may remit, subject to compliance at all times with the conditions referred to in sub-section (1), either the whole or any part of the prescribed rent:

Provided further that where, in the case of any person who is by virtue of a remission under the first proviso paying either no rent or a reduced rent, the Housing Board has reason to believe that such person has contravened any of the said conditions, it may by notice in writing require such person to pay, with effect on and after the expiry of seven days from the service of the notice, rent for the accommodation occupied by him at the full prescribed rate.

(5) All rent payable in respect of the occupation of such accommodation as aforesaid, whether at the full prescribed rate or at a lesser rate, shall be recoverable as an arrear of land revenue.

**8. Advisory Committee.**—(1) The Central Government shall, by notification in the official Gazette, constitute an Advisory Committee, to advise on matters on which the Central Government or the Housing Board is required by this Act to consult the Committee and on any other matters arising out of the administration of this Act which the Central Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed:

Provided that the Advisory Committee shall include an equal number of members representing Government, the owners of coal mines and workmen employed in the coal-mining industry, and that at least one member of the Advisory Committee shall be a woman.

(3) The Chairman of the Advisory Committee shall be an officer of the Central Government appointed by the Central Government.

**9. Appointment and powers of officers.**—(1) The Central Government may appoint a Coal Mines Labour Welfare Commissioner and such number of Inspectors, Welfare Officers and other staff as it thinks fit to supervise and carry out measures financed from the Fund.

(2) Any person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(3) The Commissioner or any Inspector or Welfare Officer may, with such assistance, if any, as he thinks fit, enter at all reasonable times any place which he considers it necessary to enter for the purpose of supervising or carrying out the measures financed from the Fund, and may do therein anything necessary for the proper discharge of his duties.

**10. Powers to make rules.**—(1) The Central Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (i) the manner in which the duty levied under sub-section (1) of section 3 shall be collected, the persons who shall be liable to make the payments, the making of refunds, remissions and recoveries, the deduction by collecting agencies of a percentage of the realisations to cover the cost of collection, and the procedure to be followed in remitting the proceeds to the Reserve Bank of India;
- (ii) the composition of the Housing Board, the manner in which its members shall be chosen, the term of office of its members, the allowances if any payable to them and the manner in which the Housing Board shall conduct its business, including the number of members necessary to form a quorum at a meeting thereof;
- (iii) the books of account to be maintained by the Housing Board, and the form of its financial estimates and statements of account;
- (iv) the composition of the Advisory Committee, the manner in which its members shall be chosen, the term of office of its members, the allowances if any payable to them and the manner in which the Advisory Committee shall conduct its business;
- (v) the apportionment between the housing account and general welfare account of the Fund of the expenditure on the administration of the Fund and on the salaries and allowances of the Commissioner, Inspectors, Welfare Officers and other staff employed for the purposes of this Act;
- (vi) the standard of dispensary service to be provided by owners of collieries for the purposes of sub-section (2) of section 5, and the inspection and supervision of the dispensaries and other places at which such services are provided;
- (vii) the application by owners of collieries for grants-in-aid, the authority to whom and the manner in which such applications shall be made and the particulars to be specified in such applications;
- (viii) the manner in which dispensary services may be provided by the Central Government;
- (ix) the conditions governing the grant of money from the general welfare account of the Fund to a Provincial Government, a local authority or the owner, agent or manager of a coal mine;
- (x) the rate of rent for housing accommodation provided out of the housing account of the Fund;
- (xi) the conditions of service and the duties of Inspectors, Welfare Officers and other officers appointed to supervise or carry out measures financed from the Fund;
- (xii) the duties and functions of the Commissioner;
- (xiii) the furnishing by owners, agents or managers of coal mines of statistical or other information, and the punishment by fine not exceeding two hundred rupees for failure to comply with the requirements of any rules made under this clause;
- (xiv) any other matter which under this Act is to be or may be prescribed.

**11. Repeal of Ordinance VII of 1944.**—(1) The Coal Mines Labour Welfare Fund Ordinance, 1944, is hereby repealed.

(2) For the avoidance of doubts it is hereby declared that the provisions of section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to the repeal effected by this section.

(3) Any balance remaining in the Fund constituted under the aforesaid Ordinance shall be credited to the Fund constituted under this Act, and shall be apportioned between the housing account and the general welfare account of such Fund in such manner as the Central Government may determine.

## COAL MINES LABOUR WELFARE FUND RULES, 1949

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### COAL MINES LABOUR WELFARE FUND RULES, 1949<sup>1</sup>

#### CHAPTER I—GENERAL

1. **Short title.**—(1) These rules may be called the Coal Mines Labour Welfare Fund Rules, 1949.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In these rules unless the context otherwise requires—

- (a) 'the Act' means the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947);
- (b) 'Chairman' means the Chairman of the Advisory Committee constituted under section 8 of the Act;
- (c) 'Commissioner' means the Coal Mines Labour Welfare Commissioner appointed under section 9 of the Act;
- (d) 'form' means a form appended to these Rules;
- (e) 'member' means a member of the Advisory Committee or the Housing Board, as the case may be;
- (f) 'owner' in relation to a colliery includes a lessee, or mortgagee in possession of such colliery and any partner, managing director, agent, manager or any other person authorised to represent the colliery in its transactions;
- (g) 'month' means a complete month reckoned according to the English Calendar;
- (h) 'treasury' means any Government treasury or sub-treasury

#### CHAPTER II—ADVISORY COMMITTEE, SUB-COMMITTEES AND HOUSING BOARD

3. **Advisory Committee.**—(1) (a) The Advisory Committee shall consist of the following members, namely:—

- (i) the Secretary to the Government of India in the Ministry of Labour, who shall be the Chairman;
- (ii) the Coal Mines Labour Welfare Commissioner, who shall be the Vice-Chairman;
- (iii) the Chief Inspector of Mines;
- (iv) one official nominated by the Government of West Bengal;
- (v) one official nominated by the Government of Bihar;
- (vi) one official nominated by the Government of the Central Provinces and Berar;
- (vii) two persons nominated by the Indian Mining Association;
- (viii) one official nominated by the Central Government to represent the State Railway Collieries;
- (ix) one person nominated by the Indian Mining Federation;
- (x) one person nominated by the Indian Colliery Owners Association;
- (xi) one person nominated by the Central Provinces and Berar Mining Association;
- (xii) six persons nominated by the Central Government to represent the interests of the workmen employed in coal mines;
- (xiii) a woman nominated by the Central Government if no women has been nominated under clause (xii) above;
- (xiv) two mining engineers to be nominated by the Central Government, one on the recommendation of the Indian Mine Managers' Association and the other on that of the National Association of Colliery Managers.

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. LWI(1)/48 dated the 7th February, 1949.

(b) The Hon'ble Minister for Labour in the Central Government may attend any meeting of the Advisory Committee and when he does, he shall, notwithstanding anything contained in sub-rule (1) (a) (i), preside at the meeting.

(2) If the seat of a member nominated by a body other than the Central Government falls vacant, the Central Government shall within two months of the falling vacant of such seat, by notice in writing, call upon the body concerned to nominate a person to fill the vacancy, and the nomination shall be made within thirty days of the date of issue of such notice:

Provided that if the body fails to make the nomination within the period specified, the Central Government may nominate a person to fill the vacancy.

(3) If a nominated member is unable to attend a meeting of the Advisory Committee, the Central Government or the body which nominated him may, by notice in writing signed on its behalf and by the said member and addressed to the Chairman of the Committee, nominate a substitute in his place to attend that meeting. Such a substitute shall have all the rights of a member in respect of that meeting.

**4. Executive Committee of the Advisory Committee.**—(a) The Executive Committee of the Advisory Committee shall consist of the Chairman, the Vice-Chairman, and Secretary to be nominated by the Chairman.

(b) The office of the Committee shall be situated in or adjacent to the West Bengal or Bihar coalfields.

(c) The Secretary shall carry out routine duties and the Vice-Chairman shall exercise such other powers and discharge such other duties of the Chairman as may be delegated by him.

**5. Sub-Committees.**—(1) The Advisory Committee shall constitute the following Sub-Committees to carry out the functions assigned to each, namely:—

(a) Finance Sub-Committee consisting of five members to frame schemes involving expenditure and to advise generally regarding the budget, maintenance of accounts and all expenditure debitable to the Fund; and

(b) Coalfield Sub-Committees, each consisting of the members, one for each of the main coalfields in West Bengal, Bihar, Madhya Pradesh, Assam, Orissa and for any other coalfield for which the Advisory Committee considers such a Committee to be necessary, to consider and advise on all matters relating to expenditure from the Fund in their respective coalfields.

(2) Subject to sub-rule (4) of this rule, the Vice-Chairman of the Advisory Committee shall be the Chairman of the Finance Sub-Committee and a member of the Advisory Committee concerned with the particular coalfield shall be the Chairman of the particular Coalfield Sub-Committee. The Vice-Chairman of the Advisory Committee shall be entitled to attend meetings of the Coalfield Sub-Committees.

(3) All members of the Coalfield Sub-Committees, except one, and all members of the Finance Sub-Committee except the Coal Mines Welfare Commissioner, shall be non-officials and in each Sub-Committee there shall be equal representation of the colliery-owners and workmen employed in the coal mining industry:

Provided that nothing in this sub-rule shall apply to any Coalfield Sub-Committee formed in respect of a coalfield, owned or managed partly or wholly by Government.

(4) Notice of every meeting of a Sub-Committee shall be sent also to the Chairman of the Advisory Committee who may attend the meeting and, notwithstanding anything in sub-rules (2) and (3), preside at any meeting if he so desires, and when he does, he shall be entitled to vote.

(5) The members of the Finance Sub-Committee shall be chosen by the Advisory Committee from amongst members of the Committee.

(6) The members of each Coalfield Sub-Committee shall be nominated by the Advisory Committee as far as possible from amongst persons other than the members of the Advisory Committee.

(7) The meetings and proceedings of every Sub-Committee shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Advisory Committee and the Housing Board in so far as the same are applicable thereto. The quorum for a meeting of a Sub-Committee shall be three members empowered to vote. Rules 8 to 12 shall apply in relation to Sub-Committee as they apply in relation to the Advisory Committee or the Housing Board and, in their application to a Sub-Committee, references in the said rules to the 'Advisory Committee' or the 'Housing Board' shall be construed as references to the Sub-Committee.

**6. Housing Board.**—(1) The Housing Board shall consist of:—

- (i) The Coal Mines Welfare Commissioner who shall be the Chairman of the Board;
- (ii) The Chief Inspector of Mines;
- (iii) The Superintending Engineer, Coal Mines Labour Welfare Fund; and
- (iv) Six persons nominated by the Central Government in consultation with the Advisory Committee.

(2) If a nominated member is unable to attend a meeting of the Housing Board, the Central Government may by notice in writing signed by an officer authorized in this behalf and by the said member and addressed to the Chairman of the Board, nominate a substitute in his place to attend that meeting. Such a substitute shall have all the rights of a member in respect of that meeting.

**7. Power to co-opt members.**—(1) The Advisory Committee may at any time and for such period as it thinks fit, co-opt any person or persons as members of the Advisory Committee or any Sub-Committee. The Housing Board may likewise at any time and for such period as it thinks fit co-opt any person or persons as members of the Housing Board.

(2) A member co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules, except that he shall not be entitled to vote on any question coming before the Advisory Committee or the Housing Board.

**8. Term of office of members.**—(1) A nominated member shall, unless he resigns his office or dies, hold office for a period of three years from the date of the notification appointing him a member of the Advisory Committee or the Housing Board and shall be eligible for renomination:

Provided that an outgoing member shall continue in office until the appointment of his successor is notified.

(2) A member nominated to fill a casual vacancy or, in the case of the Advisory Committee, a member appointed by the Central Government under the proviso to rule 3(2) shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred, or if the nomination, as required by the rule aforesaid, had been made.

**9. Remuneration to members.**—Every non-official member, including a non-official member co-opted under rule 7 shall be entitled to the following allowances for attending each meeting of the Coal Mines Labour Welfare Fund Advisory Committee or any of its Sub-Committees or the Housing Board or any of its Sub-Committees provided that the non-official member is not resident at the place where the meeting is held:—

#### Travelling Allowance

(a) In respect of journey by air ... Actual fares paid.

<sup>2</sup>[(b) In respect of journey by rail ... Single first class fare plus an allowance for incidental expenses at a flat rate of 12 pies per mile, where first class accommodation is available. Where first class accommodation is not available on the particular train or railway line by which he travels, the member will have the option to travel in air-conditioned accommodation, by paying from his own pocket, the difference between the fares for the air-conditioned and first class accommodation and where he does not exercise this option, he will be entitled to single fare for the highest class of accommodation, excluding air-conditioned accommodation, actually provided on the particular train or railway line plus an allowance for incidental expenses at such rate as may be fixed by the Central Government for their class I officers from time to time.]

<sup>2</sup> Substituted by the Ministry of Labour Notification No. S.R.O. 1252 dated the 7th June, 1955.

- (c) In respect of journey by road ... Where the journey is performed entirely by road, mileage at the rates admissible to Central Government servants of the first grade, subject to the condition that the member concerned furnishes a certificate to the effect that the journey was undertaken by road to avoid loss of time which journey by rail would have entailed, provided further that if the distance travelled by road exceeds 75 miles in a single journey, mileage allowance will be payable only for the first 75 miles for each journey.

#### Daily Allowance

Rs. 10-0-0 (ten) for each day of any meeting or meetings subject to a maximum of Rs. 30-0-0 (thirty) for any one calendar month.

Non-official members, who are resident at the places where the meetings are held, shall be entitled only to the actual cost of conveyance hire subject to a maximum of Rs. 10 (ten) per day.

The allowances referred to above shall be admissible on production of a certificate by the non-official members to the effect that they have not claimed or drawn travelling or daily allowance in respect of the journeys and halts from any other source.

NOTE 1—For the purpose of this Rule the term "member" includes a member of the Sub-Committee who is not a member of the Advisory Committee or of the Housing Board.

<sup>3</sup>[NOTE 2—Members may in their discretion travel by air.]

10. **Resignation.**—A non-official nominated member may resign his office by letter addressed to the Chairman of the Advisory Committee or the Housing Board, as the case may be.

11. **Absence from India.**—(1) Before a non-official nominated member leaves India, he shall intimate to the Chairman of the Advisory Committee or the Housing Board, as the case may be, the date of his departure from, and the date of his expected return to, India and if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any such member leaves India without complying with sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

12. **Vacation of office.**—A nominated member shall be declared by the Chairman of the Advisory Committee or the Housing Board to have vacated his office—

- (a) if he becomes insolvent; or
- (b) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) if he is absent from three consecutive meetings of the Advisory Committee or the Housing Board without leave of absence from the Chairman; or
- (d) if, in the opinion of the Central Government it is undesirable that he should continue to be a member of the Advisory Committee or the Housing Board.

#### Procedure relating to Meetings

13. **Disposal of business.**—(1) Every question which the Advisory Committee or the Housing Board is required to take into consideration shall be considered either at its meetings or, if its Chairman so directs, by sending the necessary papers to all members for their opinion:

Provided that the papers need not be sent to a member who is absent from India.

(2) Where a question is referred for opinion under sub-rule (1) any member may request that the question be considered at a meeting of the Advisory Committee or the Housing Board and thereupon the Chairman may and, if the request is made by five or more members in the case of the Advisory Committee and three or more members in the case of the Housing Board, shall direct that it be so considered.

14. **Time and place of meetings.**—The Advisory Committee, or the Housing Board shall meet at such place and time as may be appointed by its Chairman.

<sup>3</sup> Added by Ministry of Labour Notification No. S.R.O. 1252 dated the 7th June, 1955.



**15. Notice of meetings.**—(1) Notice shall be given to every member present in India of the time and place fixed for each ordinary meeting at least fifteen days before such meeting in the case of the Advisory Committee and at least seven days before such meeting in the case of the Housing Board, and each member shall be furnished with a list of business to be disposed of at that meeting:

Provided that when an emergent meeting is called by the Chairman of the Advisory Committee or the Housing Board, such notice shall not be necessary.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman of the Advisory Committee or the Housing Board as the case may be.

**16. Presiding at meetings.**—The Chairman of the Advisory Committee shall, save as provided in clause (b) of sub-rule (1) of Rule 3, preside at every meeting of the Committee at which he is present. If the Chairman is absent from any meeting, the Vice-Chairman shall preside at that meeting and if both the Chairman and the Vice-Chairman are absent, the members present shall elect one of their member to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman of the Committee. In the case of the Housing Board, the Chairman of the Housing Board shall preside at every meeting of the Board at which he is present. If the Chairman is absent from any meeting, the members present shall elect one of their member to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman of the Board.

**17. Quorum.**—No business shall be transacted at a meeting of the Advisory Committee or the Housing Board, whether ordinary or emergent, unless at least five members empowered to vote in the case of the Advisory Committee and three members empowered to vote in the case of the Housing Board are present:

Provided that if at any meeting less than this number of members attend, the Chairman of the Advisory Committee or the Housing Board as the case may be, may adjourn the meeting to a date not less than seven days later, informing the members present and sending notice to other members that he proposes to dispose of the business at the adjourned meeting, whether there is a quorum or not, and he may thereupon dispose of the business at such adjourned meeting.

**18. Decision by majority.**—(1) Every question at a meeting of the Advisory Committee or the Housing Board shall be decided by a majority of votes of the members present and voting on that question but the minority shall have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman of the Advisory Committee or the Housing Board in pursuance of sub-rule (2) of Rule 13 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of members who have submitted their opinions within the time allowed.

(3) In the case of an equal division of votes or opinions, the Chairman of the Advisory Committee or the Housing Board as the case may be, shall give an additional vote or opinion.

**19. Minutes of meetings.**—(1) The proceedings of each meeting of the Advisory Committee or the Housing Board shall be circulated to all members of the Advisory Committee or the Housing Board, as the case may be, present in India and thereafter recorded in a minute book which shall be kept for permanent record. In the case of the Housing Board, the proceedings shall also be circulated to all members of the Advisory Committee present in India.

(2) The record of the proceedings of each meeting shall be signed by the Chairman of the Advisory Committee or the Housing Board as the case may be.

#### POWERS OF THE CHAIRMAN OF THE ADVISORY COMMITTEE

**20. Staff.**—(1) Subject to financial provision in the sanctioned budget and to the provisions of rule 21, the Chairman of the Advisory Committee may create technical and other posts for carrying out the purposes of the Act, may fix the scale of establishment and the salaries and allowances of staff employed by him and may require security to be taken in such cases and for such amount as he thinks fit:

Provided that the creation of a post with a maximum salary exceeding Rs. 500 per month shall require the previous sanction of the Central Government.

(2) The Chairman of the Advisory Committee may authorise the staff to give assistance to any Sub-Committee of the Advisory Committee, to the Housing Board or to any other

authority exercising executive or advisory functions in connection with the Act or to any person getting a grant from the fund.

**21. Schemes of expenditure.**—(1) The Chairman of the Advisory Committee shall have power to incur expenditure on administrative staff and sanctioned welfare and housing schemes to the extent of the financial provision in the sanctioned budget:

Provided that—

(i) he shall have no power to sanction the creation of a post on a salary of more than Rs. 500 per month and shall have only such powers of reappropriation as may be approved by the Central Government after considering the advice of the Advisory Committee.

(ii) he shall have no power to incur expenditure on a scheme that has not been sanctioned by the Central Government if the cost of such a scheme exceeds Rs. 20,000 non-recurring and Rs. 2,500 per annum recurring.

(2) The Chairman of the Advisory Committee may, with the concurrence of the appropriate Sub-Committee approve any new scheme costing not more than Rs. 20,000 non-recurring and Rs. 2,500 per annum recurring. All other schemes shall require the sanction of the Central Government which shall be applied for by the Chairman of the Advisory Committee after consulting it.

Where the Central Government does not approve a new scheme forwarded by the Chairman of the Advisory Committee, he shall be so informed within three months, and the Chairman shall inform the Advisory Committee or if the matter concerns only a particular coalfield, the appropriate Sub-Committee.

(3) Subject to financial provision in the sanctioned budget, the Vice-Chairman of the Advisory Committee shall have power to incur any sanctioned expenditure and shall, with the concurrence of the appropriate Sub-Committee or Housing Board, also have power to sanction any new welfare and housing scheme, if the cost of such a scheme does not exceed Rs. 10,000 non-recurring and Rs. 1,000 per annum recurring.

**22. Contingent expenditure.**—The Chairman of the Advisory Committee may sanction, without reference to it, expenditure on contingencies, supplies and services and purchase of articles subject to financial provision in the sanctioned budget and to the condition that the expenditure on any single object shall not exceed Rs. 2,000 non-recurring and Rs. 400 per annum recurring.

#### POWERS OF ADVISORY COMMITTEE

**23. (1) Budget.**—The annual budget of the Fund prepared by the Executive Committee in consultation with the Finance Sub-Committee shall be considered by the Advisory Committee each year. Thereafter, the budget as finally approved by the Advisory Committee shall be forwarded not later than the 1st day of October each year for sanction to the Central Government which may make such alterations therein as it considers necessary before according its sanction.

**(2) Other matters to be considered by Committee.**—Besides its statutory duties, the Advisory Committee shall consider and report on the budget and on any matter referred to it by the Central Government or by the Chairman of the Advisory Committee for advice.

If not less than five members request the Chairman of the Advisory Committee to refer any matter to the Advisory Committee, he shall refer to it accordingly.

**(3) Committee to be informed of expenditure.**—A memorandum setting forth any grant made or expenditure incurred from the Fund since the last meeting shall be laid at each meeting of the Advisory Committee.

**24. Powers of the Housing Board.**—(1) The Housing Board shall, subject to the previous approval of the Central Government, frame bye-laws—

(i) specifying the conditions relating to occupation to be observed by the allottees;

(ii) providing for the manner in which allotment of housing accommodation shall be made;

(iii) fixing the rates at which rent is to be recovered and the manner of recovery; and

(iv) generally for carrying out the functions of the Board under the Act.

(2) The Housing Board shall submit to the Central Government a statement in Form A as required by sub-section (7) of section 5 of the Act.

(3) (a) The Housing Board shall prepare and submit in January each year to the Advisory Committee and the Central Government an annual statement of the accounts in Form B.

(b) The annual account shall be accompanied by a statement of investments in Form C made under sub-section (9) of section 5 of the Act.

(4) The Housing Board shall also maintain separate accounts for the following:—

- (a) progressive expenditure on every approved scheme;
- (b) loan repayment account;
- (c) cost of acquisition of land for buildings; and
- (d) depreciated value at the end of each financial year of buildings whose cost has been debited to the Housing Account.

(5) All agreements and instruments entered into by the Housing Board shall be signed by the Chairman on behalf of the Housing Board.

### CHAPTER III—FINANCIAL PROVISIONS

**25. Allocation of Expenditure from the Fund between the General Welfare Account and the Housing Account.**—The cost of administering the Fund shall be apportioned between the housing account and the general welfare account in the proportion of two to seven.

**26. Grants.**—(1) In each case in which a grant is made by, or with the approval of the Central Government, from the general welfare account or the housing account of the Fund to a provincial government, a local authority, or the owner of a coal mine, in aid of any scheme approved by the Central Government for any purpose for which the monies in the general welfare account or the housing account may be utilised, the Central Government may impose conditions necessary for ensuring—

- (a) that the work for which the grant is made is duly and promptly executed and the money is actually utilized for the purpose for which it is granted;
- (b) that the data on which the grant is calculated are in accordance with facts;
- (c) that any particulars which the Central Government may from time to time require for the proper discharge of its responsibilities are promptly supplied;
- (d) that all necessary facilities for inspection are accorded to persons duly authorised by the Central Government for the purpose of clause (a) or for checking the correctness of any particulars supplied under clause (c) or for the collection of any such particulars; and
- (e) that proper accounts of the money granted are kept and are submitted for audit by such persons as the Central Government may authorise in this behalf.

(2) Before making a grant from the general welfare account or the housing account of the Fund to a local authority or to the owner of a coal mine, the Central Government shall require such local authority or owner to execute a bond for the fulfilment of conditions imposed by the Central Government under sub-rule (1).

(3) It shall be a condition of every bond executed under sub-rule (2) that in the event of the local authority or owner of the mine violating any condition imposed under sub-rule (1), such local authority or owner shall be liable to pay to the Central Government such sum by way of penalty as may be specified in the bond.

**27. Recovery of Excise Duty.**—(1) The duty of excise imposed under section 3 of the Act on coal and coke shall—

- (i) when such coal and coke is despatched by rail from any colliery in a state to any station in India be collected by the Railway Administration concerned by means of a surcharge on freight and such duty of excise shall be recovered—
  - (a) from the consignee, if the freight charges are collected at the destination of the consignment; or
  - (b) from the consignor, if the freight charges are prepaid at the forwarding station; or
  - (c) from the party paying the freight if the consignment is booked on the weight system;
- (ii) when such coal or coke is despatched from any colliery in a state otherwise than by rail, be recovered from the owner of the colliery concerned and collected in the manner provided in Chapter IV of these Rules.

(2) Where coal or coke is despatched by rail from collieries to any station outside India, the duty of excise shall be recovered from the consignor at the forwarding station.

(3) In calculating the amount of duty of excise payable on any one consignment a fraction of an anna shall be rounded off to the nearest anna.

**28. Weight for charge.**—For the purpose of the levy of the excise duty, the actual weight of a consignment rounded off to the nearest ton, shall be taken into account.

**29. Remittance of Excise Duty.**—(1) The total amount of excise duty collected by each Railway Administration less—

(a) refunds and write-offs authorised by the Railway Administration under Rule 30; and

(b) deduction of such percentage as the Central Government may, by notification in the Official Gazette, fix towards the cost of collection; shall, under advice to the Accountant General, Bihar, be remitted quarterly to the Reserve Bank of India at Calcutta to the credit of the Central Government.

(2) An amount equivalent to the amount of excise duty credited to the Central Revenue under sub-rule (1) shall be transferred to the Coal Mines Labour Housing and General Welfare Fund.

(3) The amount of the excise duty remitted during a financial year by a Railway Administration under sub-rule (1) shall be certified as soon as possible after the close of the financial year by such officer or officers as the Central Government may appoint in this behalf.

(4) The certificates under sub-rule (3) shall be sent to the Central Government and copies thereof to the Accountant General, Bihar, and to the Coal Mines Welfare Commissioner by the officers concerned.

**30. Refunds and Recoveries.**—(1) When the amount of the duty of excise due under these rules has not been collected either wholly or in part or where the amount collected is in excess of the amount due, the Railway Administration shall have the right to recover the under-charge and the liability to refund the over-charge on the same principles as apply to under-charge and over-charge in respect to railway freight charges.

(2) When it is proved to the satisfaction of the Central Government or of any person authorised in this behalf by the Central Government, that any coal on which the duty of excise under section 3 of the Act had been collected has been used in the manufacture of any coke on which the duty has also been collected, the Central Government or the person authorised in this behalf by the Central Government may order refund to the person from whom such duty was collected of an amount equal to the duty of excise on such coal less deduction of such percentage as the Central Government may, by general or special order, fix as the cost of collection of such duty:

Provided that no claim for any such refund shall be entertained unless it is preferred within one year from the end of the quarter to which the claim relates.

Provided further that no claim for any such refund relating to a period prior to the 15th May 1951 shall be entertained unless it is preferred by the 31st December, 1952.

(3) A refund of duty of excise of the nature specified in sub-rule (2) may, subject to the like conditions, be also allowed in respect of the duty of excise collected on raw coal during the course of its transport to the washery where the duty of excise is again collected on the washed coal sent from the washery to the consuming centres.

4[(4) A refund of duty of excise of the nature specified in sub-rule (2) may, subject to the like conditions, be also allowed in respect of the duty of excise collected on coal or coke during the course of its transport from colliery pitheads to railway heads where the duty of excise is again collected on the coal or coke sent from the rail heads to the consuming centres.]

**31. Audit of Accounts.**—The accounts of the General Welfare Account Fund shall be maintained and audited in the same manner as of any other Fund administered by the Central Government. The housing account of the Fund which shall be maintained by the Board shall be audited by a certified Auditor as soon after the close of the financial year as possible. The appointment of the Auditor shall be sanctioned and his remuneration fixed by the Central Government on the recommendation of the Advisory Committee.

#### CHAPTER IIIA—DISPENSARY SERVICES

**31A. Standard of Dispensary Services.**—(1) The standard of dispensary services to be provided by owners of collieries for the purposes of sub-section (2) of section 5 of the Act shall be as specified in the Schedule hereto annexed, hereinafter called the 'prescribed standard':

Provided that in the case of any dispensary which is in existence on.....November, 1950, the Coal Mines Welfare Commissioner may if he is satisfied that the dispensary is

4Inserted by the Ministry of Labour Notification No. S.R.O. 224, dated the 13th January, 1955.

being efficiently run and serves the purpose for which it is established, waive any of the requirements specified in the prescribed standard.

<sup>5</sup>[Provided further that in the case of any dispensary in respect of which the Commissioner is satisfied that it has been brought up to the prescribed standard in all respects except buildings and equipments, the grant-in-aid may be paid, if the owner or agent of the colliery undertakes to bring the buildings and equipments also to the prescribed standard within such period not exceeding five years as may be specified by the Commissioner in this behalf.]

If after payment of the first year's grant-in-aid, it is found at the time of any subsequent inspection that the owner or agent has not in the opinion of the Commissioner made sufficient progress towards improvement in regard to the equipments and buildings, the payment of grant-in-aid for the subsequent years shall be withheld.]

<sup>6</sup>[(2) <sup>7</sup>[There shall be maintained] an independent dispensary at each colliery according to the standard specified in the Schedule referred to in sub-rule (1):

Provided that <sup>8</sup>[a common main dispensary may be maintained for several collieries] with branch dispensaries attached to each colliery subject to the following conditions, namely

- (i) the common main dispensary shall maintain the standards prescribed for the aggregate number of workers of all the collieries served by it or the standard maintained by it during the year 1951, whichever is higher,
- (ii) every branch dispensary shall have a qualified doctor and a qualified compounder,
- (iii) the common main dispensary shall be so situated that none of the collieries served by it is more than ten miles distant from it, and
- (iv) the common main dispensary shall maintain an ambulance van for taking serious cases of injury and sickness from the branch dispensaries to the common dispensary.]

**31B. Inspection.**—The dispensary services maintained by owners of collieries shall be inspected at intervals not exceeding one year by such medical officer as may be appointed by the Chairman for the purpose. The medical officer, shall if the dispensary conforms to the prescribed standard issue a certificate in Form CI which shall be valid for a period of one year from the date of issue.

**31C. Submission of Periodic Returns.**—Each colliery owner who maintains a dispensary service shall submit to the Coal Mines Welfare Commissioner—

- (i) in January and July of each year a statement showing the total amount of coal and coke despatched during the preceding six months from his colliery, and
- (ii) in January of each year a certified statement of the expenditure incurred on the dispensary during the preceding 12 months.

#### CHAPTER IV—PROCEDURE FOR RECOVERY OF EXCISE DUTY ON COAL AND COKE DESPATCHED OTHERWISE THAN BY RAIL

**32. Maintenance of Register of Despatches and Submission of Returns.**—(1) Every owner of a colliery shall maintain in Form D a Register of Despatches of all coal and coke despatched otherwise than by rail and shall record therein each despatch made during a month, separately and consecutively. At the close of each month, the entries made against each permit and date in the Register shall be totalled and the total tonnage despatched during the month shall be entered in the register. The amount of duty of excise payable on the total tonnage despatched at the prescribed rate shall be worked out and recorded in the register itself.

**Explanation.**—In calculating the total tonnage, a fraction of less than half shall be ignored; and a fraction of more than half shall be reckoned as one ton.

(2) Every owner of a colliery shall submit to the Commissioner in duplicate a Return in Form 'D' for each month in accordance with the entries made in the register maintained

<sup>5</sup> This further proviso was inserted by the Ministry of Labour Notification No. S.R.O. 1475 dated the 2nd July, 1955 and the existing second proviso was omitted.

<sup>6</sup> The sub-rule was inserted by the Ministry of Labour Notification No. S.R.O. 1277 dated the 20th June 1953.

<sup>7</sup> These words were substituted for the words "the owner of each colliery shall maintain" by the Ministry of Labour Notification No. S.R.O. 2803 dated the 24th August, 1954.

<sup>8</sup> These words were substituted for the words "where several collieries are owned by one owner, the owner may maintain a common main dispensary for all such collieries," *ibid.*

under sub-rule (1) duly signed by such owner or any person authorised by him in this behalf.

(3) A return so submitted shall reach the Commissioner not later than the last day of the following month.

(4) Where no coal or coke is despatched in any month, the owner of the colliery shall submit to the Commissioner within the time specified in sub-rule (3) a blank return in duplicate, for that month, accompanied by a certificate duly signed by such owner to the effect that no coal or coke was despatched during that month.

(5) Notwithstanding anything contained in this rule, if the Commissioner is satisfied with respect to the owner of any colliery that no coal or coke was despatched by him otherwise than by rail during the preceding twelve months he may by a permit in writing allow him to submit, in place of a monthly Return, a consolidated Return in Form D for such period not exceeding one year as may be specified in the permit. A consolidated Return so submitted shall reach the Commissioner not later than the last day of the month immediately following the period specified in the permit.

**33. Provisional Assessment and Payment of Excise Duty.**—The amount of duty of excise payable for any month and recorded in the register maintained under rule 32 shall be deemed to be provisional assessment of the duty and shall be subject to a final assessment under rule 37.

**34. Manner of Payment of Duty.**—(1) The owner of a colliery shall pay the duty of excise assessed under rule 32 into the nearest treasury, not later than the last day of the following month.

(2) The payment into the treasury shall be made by means of a challan, the remittance being shown as creditable to the Central Government.

(3) The challan shall be filled in triplicate, a copy of which shall be retained by the Treasury and the remaining two copies shall be returned to the depositor who will keep one for himself and transmit the other copy to the Commissioner as proof of payment along with the monthly return prescribed in sub-rule (2) of rule 32 after entering the number, date and amount shown in the treasury receipt in both the copies of the return.

(4) An amount equivalent to the amount of excise duty credited to the Central Revenues under sub-rule (2) shall be transferred to the Coal Mines Labour Housing and General Welfare Fund.

**35. Delay in Submission of Returns.**—If the return for any month does not reach the Commissioner within the time prescribed by rule 32, the owner of the colliery shall be punishable with fine which may extend to two hundred rupees.

**36. Late Returns and Revision of Returns.**—If the owner of any colliery has not furnished the return within the prescribed date or having furnished it, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the order of final assessment is passed.

**37. Final Assessment of Excise Duty.**—(1) If the Commissioner is satisfied that the return submitted by any owner is correct and complete, he shall confirm the provisional assessment referred to in Rule 33 as final and send an intimation to that effect to the owner of the colliery concerned in Form E within three months from the date of receipt of the return.

(2) (a) If the Commissioner is not so satisfied, he may either depute an officer for the purpose of verification of the correctness and completeness of the return with reference to the books and accounts and other relevant records of the colliery at its premises, or issue a notice in Form F-1 on the owner of the colliery concerned requiring him to attend either personally or through a duly authorised representative on the date and at the time and place to be specified in the notice. The officer deputed by the Commissioner shall be afforded all necessary facilities at the premises of the colliery for the purpose of verification as aforesaid.

(b) After verification of the return or after hearing such evidence as the owner may produce in compliance with the notice issued under clause (a) and such evidence as the Commissioner may require on specified points, the Commissioner shall as soon as possible assess the amount of duty due from the owner and such assessment shall be final.

(c) If the Commissioner is satisfied that the return submitted by the owner is correct and complete he shall confirm the provisional assessment as final. If, on the other hand,

under the final assessment a further sum is due from the owner, the Commissioner shall issue on the owner a Demand Notice in Form H-1 requiring the payment of the balance due within the time specified therein.

(d) If any owner having furnished a return for a month, fails to comply with any of the terms of the notice that may be issued on him under clause (a) the Commissioner shall assess the amount of the duty due from him which in his judgment, is just and proper and such assessment shall be final.

(3) If any owner does not furnish a return in Form D for any month by the prescribed date in the manner laid down in rules 32 and 34, the Commissioner shall, after giving the owner a reasonable opportunity of being heard by the issue of a notice in Form F-2 assess the amount of duty due from him which in his opinion is just and proper. The owner shall further be punishable with fine which may extend to two hundred rupees as provided in rule 35.

(4) If upon information which has come into his possession the Commissioner is satisfied that an owner has actually despatched during a month coal or coke otherwise than by rail and has thereby become liable to pay duty under section 3 of the Act but has failed to furnish a return in respect of that month and to pay the amount of provisional assessment on that basis by the last day of the following month, the Commissioner shall after giving the owner a reasonable opportunity of explaining the reasons for the failure by the issue of a notice in Form F-3, assess the amount of duty due from him which in his opinion, is just and proper in respect of that month.

(5) The Commissioner shall fix a date ordinarily not earlier than 30 days from the date of issue of a notice in Form F-1, or F-3 for producing such accounts and documents as he may require and for considering any objection which the owner may wish to offer.

(6) After considering any objection made by the owner and any evidence produced in support thereof, the Commissioner shall assess the amount of the duty to be paid by the owner and shall briefly record his findings and pass his final assessment order in Form G.

(7) The amount of duty thus assessed, the date by which the amount so assessed is to be deposited (which shall not ordinarily be earlier than 30 days from the date of issue of Demand Notice) and any other particulars connected therewith shall be specified in the Demand Notice in Form H-1.

(8) The mode of payment into the Treasury of the amount specified in Demand Notice in Form H-1 shall be the same as laid down in rule 34 provided that the copy of the Treasury Challan intended for transmission to the Commissioner shall be forwarded to him with a covering letter quoting reference to the Demand Notice.

### 37A. Despatches of coal or coke which have escaped assessment.—If

(a) the Commissioner has reason to believe that by reason of the concealment by the owner of the particulars of despatches of coal or coke from any colliery, such despatches have escaped excise duty; or

(b) notwithstanding there has been no such concealment of particulars as is mentioned in clause (a) on the part of the owner, the Commissioner has, in consequence of information in his possession, reason to believe that any despatches of coal or coke from a colliery have escaped excise duty;

the Commissioner may, in cases falling under clause (a) at any time within four years, and in cases falling under clause (b) at any time within two years of the end of the month the return in respect of which should have included such despatches of coal or coke which have escaped assessment, assess the excise duty payable thereon and all the provisions of these rules shall apply to the excise duty so assessed as if assessment were included in the final assessment of excise duty under rule 37.

Provided that the Commissioner before exercising the powers conferred upon him under this rule shall give the owner a reasonable opportunity of being heard.

**38. Recovery of Unpaid Excise Duty and Penalty.**—(1) Any amount of duty, which remains unpaid after the date specified in the Demand Notice shall be recovered as an arrear of land revenues, and shall be credited to the Central Government and subsequently transferred to the Coal Mines Labour Housing and General Welfare Fund in the manner specified in sub-rules (2), (3) and (4) of rule 34.

(2) The Commissioner shall (in order to recover the unpaid amount of cess) apply to the Collector of the district in which the colliery is situated for the recovery of the amount remaining unpaid.

(3) The Collector shall send a report to the Commissioner by the 10th of each month showing the amount recovered by him during the preceding month.

39. **Review.**—(1) Within 30 days from the date of issue of a Demand Notice in Form H-1, any owner may submit a petition to the Commissioner asking for a review of such assessment, provided that no such petition shall be entertained unless the Commissioner is satisfied that the amount assessed has been paid by the owner into a treasury as required under rule 37.

(2) Every petition for review shall be accompanied by a memorandum setting forth clearly the principal grounds of objections against the assessment made together with a copy of the Treasury Challan showing that the amount assessed has been paid (to Government) and a certified copy of the assessment order.

(3) The Commissioner shall, after verifying the fact of assessment from the records of his office, satisfy himself as to the correctness of the grounds in the petition and if he finds that a *prima facie* error of judgment has been made shall issue an order either reducing or annulling the assessment.

(4) If, on the other hand, the records in his office reveal that assessment has been made correctly, the Commissioner shall after giving the petitioner an opportunity of being heard, issue an order confirming the assessment. The order of the Commissioner shall be final.

(5) The Commissioner shall record his decision in writing.

(6) The petitioner shall be entitled to a copy of the Commissioner's orders on the petition for review free of cost and it shall be furnished to him as soon as possible after the orders are passed.

(7) So much of the duty originally assessed upon and paid by the owner as is found not to be due from him as a result of review under sub-rule (1) shall be refunded to the owner concerned or adjusted in the account of the owner concerned, as the Commissioner may deem fit, on the basis of the orders on the petition for review.

(8) Any refund under sub-rule (7) shall be made in cash by drawing the amount from the Treasury on an ordinary contingent bill on which shall be specified the review case, number, date of review order and the number, date and amount of Treasury Challan concerned.

40. **Records of Collection.**—(1) For the proper accounting of the duty collected under these rules, the Commissioner shall maintain records to show the following particulars along with any other particulars required:—

- (a) Assessment and collection of duty.
- (b) Particulars of petitions and orders thereon.
- (c) Refunds.

(2) All the papers relating to the assessment of duty in respect of a colliery shall be kept together and shall form an assessment case record.

#### CHAPTER V—MISCELLANEOUS

41. **Statistics and Other Information.**—(1) The owner of a coal mine shall furnish such statistics or other information as the Central Government or any other person authorised by the Central Government in writing in this behalf may by written order require for the purposes of the Act in such form or manner and within such time as may be specified in the order.

(2) Any owner of a coal mine, who without reasonable excuse fails to furnish the statistics or other information required by the Central Government under sub-rule (1), or furnishes statistics or other information containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punished with fine which may extend to two hundred rupees.

42. **Employees of the Fund not Public Servants.**—Persons paid from the Fund shall not be deemed to be Government servants, notwithstanding that the Central Government may direct that service rules, applicable to Government servants generally may apply, with or without modification, to such persons.



**FORM A—Statement of Estimated Receipts into and Expenditure from the  
Housing Account of the Fund for the Financial Year**

Serial No.	Receipts	Actuals for the pre- ceding financial year.	Revised Estimates for the current financial year	Esti- mates for	Expenditure	Actuals for the pre- ceding financial year.	Revised Estimates for the current financial year.	
		Rs.	Rs.	Rs		Rs.	Rs.	Rs.
1	Cess collections (amount apportioned for the housing account of the Fund at the rate of.....)	...	..	..	1. Administrative charges (share of expenditure to be charged to the housing account of the Fund).	...	...	..
2	Loan sanctioned by Central Government	...	...	...	2. Expenditure on house building scheme:—  (a) cost of prepar- ing schemes.  (b) cost of acquisi- tion of land.  (c) cost of cons- truction.  (d) maintenance and repair charges.  (e) tools and plants.	...	...	...
3	Rents realised from housing accommo- dation.	...	...	...	3. Sinking fund subscription.	...	...	...
4	Interest on invest- ments.	...	...	...	4. Grants to State Governments, local authorities or own- ers of coal mines in aid of approved scheme.	...	...	...
5	Miscellaneous re- ceipts.	...	...	...	...	...	...	...
	Total	...			Total	...		

FORM B—*Annual Statement of Accounts of the Housing Fund for the year.....*

Receipts	Actuals for the year	Expenditure	Actuals for the year
	Rs.		Rs.
<i>Opening balance</i>			
1. Cess collections (amount apportioned for the housing account of the Fund at the rate of ).	...	Administrative charge (share of expenditure to be charged to the housing account of the Fund).	...
2. Loan sanctioned by Central Government.	...	Expenditure on house building scheme. (a) cost of preparing scheme (b) cost of acquisition of land (c) cost of construction ... (d) maintenance and repair charges	... ... ... ...
3. Rent realised from housing accommodations.	...	Sinking fund subscriptions	...
4. Interest on investments.	...	Grants to Provincial Governments, local authorities or owners of coal mines in aid of approved schemes.	...
5. Miscellaneous receipts	...	Closing balance.	...

FORM C—*Statement of investments made under section 5 of the Act*

No. and date of the Central Government's letter sanctioning the investment.	Nature of investment i.e., Government paper.	Book value, i.e., cost including brokerage and other charges.	Face Value	Market value
Total	...			

**FORM Cx—Inspection Report on Dispensary—(See rule 31B)**

Inspection report of the.....Dispensary at.....  
by the.....for the year.....ending.....19

1. Name of Colliery/Collieries served by the Dispensary
2. Number of workers for which it caters ... ..
3. Date and hour of inspection ... ..
4. Date of last inspection ... ..
5. Dispensary Buildings—
  - (a) Condition of Dispensary Building ... ..
  - (b) Does the accommodation provided conform to the prescribed standard? ... ..
6. Medicines—
  - (a) Is the supply sufficient and according to the prescribed scale? ... ..
  - (b) Are the poisons labelled and kept separately under lock and key? ... ..
7. Surgical instruments and equipment. Are they sufficient and in good order? ... ..
8. Staff Acquittance Rolls—Are they in order and up-to-date? ... ..
9. Registers and Returns—Are these properly kept and regularly submitted? ... ..
10. Establishment—
  - (a) Officer-in-charge—
    - (i) Part-time/whole-time ... ..
    - (ii) Name and qualifications ... ..
  - (b) Designation and pay of staff—
    - (i) Medical Graduate ... ..
    - (ii) Medical Licentiate ... ..
    - (iii) Lady Doctor ... ..
    - (iv) Nurse ... ..
    - (v) Compounder ... ..
    - (vi) Midwife ... ..
    - (vii) Male Dresser ... ..
    - (viii) Female Dresser ... ..
    - (ix) Sweeper ... ..
    - (x) Chowkidar ... ..
    - (xi) Peon ... ..
  - (c) Attendance Register—Do the staff attend regularly?
11. Annual expenditure on—
  - (a) Establishment ... ..
  - (b) Medicines ... ..
12. Out-patients—
  - (a) Number seen at the time of visit ... ..
  - (b) Total number of new patients treated in current year up-to-date. ... ..
  - (c) Total number of old patients treated in current year up-to-date ... ..
  - (d) Total treated during the last year ... ..
  - (e) Do the entries on tickets of patients present tally with the entries on the register? ... ..
  - (f) Are there any arrangements for treating females apart from males? ... ..
12. Are you satisfied with the working of the dispensary? If not, what suggestions can you make for its improvement?

I certify that I have inspected the dispensary noted above and that it conforms

does not conform in the following \*respects to the standards laid down in the Coal Mines Labour Welfare Fund Rules, 1949.

Signature of Inspecting Officer.

Date

Signature of Coal Mines Welfare Commissioner.

\*Give details below.

## THE SCHEDULE

*Standard of Dispensary Services to be provided by Owners of Collieries for the purpose of sub-section 2 of section 5 of the Act. (Rule 31A).*

## I. Building

*Dispensary catering for 1,000 workers or less—*

Three rooms each being 14' x 12' to be used as follows:—

- (i) Consulting room.
- (ii) Dressing room.
- (iii) Dispensary and Store room.

Covered waiting accommodation—144 sq. ft.

Two latrines—(Flush type) each 5' x 8'.

*Dispensary catering for 1,001 to 2,000 workers—*

Four rooms each being 14' x 12' to be used as follows:—

- (i) Consulting room.
- (ii) Minor Operation room.
- (iii) Store room.
- (iv) Dispensary room.

Covered waiting accommodation—288 sq. ft.

Two latrines—(Flush type) each 5' x 8'.

*Dispensary catering for over 2,000 workers—*

Five rooms each being 14' x 12' to be used as follows:—

- (i) Consulting room.
- (ii) Minor Operation room.
- (iii) Dispensary room.
- (iv) Store room.
- (v) Laboratory and Office room.

Covered waiting accommodation—432 sq. ft.

Two latrines—(Flush type) each 5' x 8'.

Each dispensary should provide emergency beds for treatment of simple and emergency cases at the rate of one bed for every 250 workers subject to a minimum of two beds, one for males and one for females. For this purpose separate rooms shall be provided for males and females and each room shall be 14' x 12' and shall have air space of 1,200 cft. and door and window space not less than 1/3 of the floor space with verandah 7 ft. wide along the front of the rooms.

Collieries which have no provision of such emergency beds at their dispensaries will be allowed time up to three years from the date the standards are enforced. Those collieries which fall to provide emergency beds in three years' time shall not be entitled to any subsidy thereafter even if they otherwise be qualified for it.

## II. Staff

## I. For 500 workers or less—

## (a) Below 250 workers—

Medical licentiate	...	...	...	...	1 (part-time).
Midwife	...	...	...	...	1 do.
Sweeper	...	...	...	...	1 do.
Compounder-cum-dresser	...	...	...	...	1 (whole-time).
Peon	...	...	...	...	1 do.

## (b) For 251—500 workers—

*Medical graduate	...	...	...	...	1 (part-time).
*Medical licentiate	...	...	...	...	1 do.
Midwife	...	...	...	...	1 do.
Sweeper	...	...	...	...	1 (whole-time).
Compounder-cum-dresser	...	...	...	...	1 do.
Peon	...	...	...	...	1 do.

\*The part-time graduate and licentiate should not be allowed to serve more than 4 and 2 collieries respectively.

## 2. For 501—1000 workers—

Medical graduate (male)	...	...	...	1 (whole-time).
Medical graduate or licentiate (lady doctor)	...	...	...	1 (part-time).
Midwife	...	...	...	1 (whole-time)
Sweepers	...	...	...	2 do.
Compounder-cum-dresser	...	...	...	1 do.
Peon	...	...	...	1 do.

## For emergency beds—

Attendants	...	...	...	2
Cook	...	...	...	1
Sweeper	...	...	...	1

## 3 For 1001—2000 workers—

Medical graduate (male)	...	...	...	1 (whole-time)
Medical graduate or licentiate (lady doctor)	...	...	...	1 do.
Compounder	...	...	...	1 do.
Dressers	...	...	...	2 do.
Midwife	...	...	...	1 do.
Sweepers	...	...	...	2 do.
Peon	...	...	...	1 do.

## For emergency beds—

Attendants	...	...	...	3
Nurse	...	...	...	1
Cook	...	...	...	1
Sweepers	...	...	...	2

## 4. For 2001—3000 workers—

Medical graduate	...	...	...	1
Medical licentiate	...	...	...	1
Lady Doctor	...	...	...	1
Compounders	...	...	...	2
Dressers	...	...	...	2
Midwife	...	...	...	1
Nurse	...	...	...	1
Sweepers	...	...	...	3

} whole-time

## For emergency beds—

Attendants	...	...	...	3
Nurses	...	...	...	2
Cooks	...	...	...	2
Sweeper	...	...	...	1

## 5 3000 labourers and above—

As in group 4 above, but with two midwives.

## III. List of Drugs, Surgical Equipments, Dressings, etc., for Colliery Dispensaries

Drugs				Below 250 workers	250—1000 workers	Above 1000 workers
1				2	3	4
Acid Acetic	...	...	...	1 oz.	2 oz.	2 oz.
Acid Boric	...	...	...	2 oz.	4 oz.	8 "
Acid Benzoic	...	...	...	1 oz.	1 oz.	2 "
Acid Carbolic	...	...	...	1 oz.	1 oz.	2 "
Acid Sulphuric	...	...	...	2 oz.	2 oz.	4 "
Acid Salicylic	...	...	...	1 oz.	1 oz.	2 "
Aqua Distillata	...	...	...	2 bottles.	2 bottles.	4 bottles.
Ammon Carb	...	...	...	2 oz.	2 oz.	4 oz.
Aspirin	...	...	...	2 dr.	2 dr.	1 oz.
Acriflavin or other anti-septic dye	...	...	...	2 dr.	2 "	1 oz.

	1	2	3	4
Benedict's solution	...	... 1 oz.	1 oz.	2 oz.
Calcium lactate	...	...	...	4 oz.
Cocaine	...	... ½ dr	½ dr.	½ dr.
Copper sulphate	...	...	...	1 dr.
Calamina Preparata	...	... 2 oz.	2 oz.	4 oz.
Cod Liver Oil	...	... 4 oz	4 oz.	8 oz.
Ephedrine Hydrochlor (¼ gr. tab.)	...	... 25	25	50
Ether	...	...	...	1 lb.
Ext. Ergot Liq.	...	... 2 oz	2 oz.	4 oz.
Ext. Glycrr. Liq.	...	... 4 oz.	4 oz.	8 oz.
Ferri sulph.	...	... ½ oz	1 oz.	1 "
Ferri sulphmon citras	...	... 2 oz.	4 oz.	8 oz.
Glucose	...	... 4 oz.	4 oz.	1 lb.
Glycerine	...	... 4 oz.	4 oz.	8 "
Gum acacia	...	... 2 oz	2 oz.	4 oz.
Hydrarg ammoniata	...	... ½ oz.	1 oz.	2 oz.
Hydrarg oxide flava	...	... 1 dr.	1 dr.	2 dr.
Ethylol	...	...	...	2 oz.
Kaoline	...	... 1 oz.	2 oz	4 "
Lint saponis	...	... 4 oz	8 oz.	1 lb.
Liq. Morph Hydrochlor	...	...	1 oz.	2 oz.
Liq. Ammon acetate	...	... 4 oz.	4 oz.	1 lb.
Liq. Plumbi subacetat fort	...	... 4 "	8 oz.	8 oz.
Lysol	...	... ½ lb.	½ lb.	½ lb.
Mag. Oxide powder or	...	} 1 oz	2 oz.	2 oz.
Mag Trisillicate	...		...	...
Mag Sulph	...	... 8 oz.	1 lb.	1 lb.
Menthol	...	...	...	½ dr.
Multi vitamin tab.	...	... 50	100	100
Oil Ricini	...	... 8 oz.	1 lb.	1 lb.
Oil menth pip	...	...	1 oz.	2 oz
Oil Olive	...	... 4 oz.	8 oz.	1 lb.
Paludrine tabs	...	... 100	200	200
Pheno barbitone	...	... 1 dr.	1 dr.	2 dr.
Pot. Bromide	...	... 2 oz.	4 oz.	4 oz.
Pot Citrate	...	... 2 oz	4 oz.	4 oz.
Pot. Iodide	...	... ½ oz.	1 oz.	2 oz.
Pot. Permanganate	...	... 4 oz.	8 oz.	8 oz.
Protargol	...	... 1 dr.	2 dr.	2 dr.
Pulv. Atropin sulph	...	... ½ dr.	½ dr.	½ dr.
Pulv. Ipecac co.	...	... 2 dr.	4 dr.	1 oz.
Pulv. Quinine sulph.	...	... 1 oz.	2 oz.	2 oz.
Santonin	...	... ½ dr.	½ dr.	½ dr.
Sodi Bicarb	...	... ½ lb.	1 lb.	1 lb.
Sodi Salicylate	...	... 2 oz.	4 oz.	4 oz.
Spt. Ammon. Aromat	...	... 2 oz.	4 oz.	4 oz.
Sodi Chloride	...	... 4 oz.	8 oz.	8 oz.
Spt. Methyl.	...	... 8 oz.	8 "	1 lb.
Spt. Rect.	...	... 4 oz.	4 "	8 oz.
Sulphanilamide or Sulphadiazine	...	... 100 tabs.	200 tabs.	200 tabs.
Sulphaguanidine	...	... 200 tabs.	300 tabs.	400 tabs.
Sulphanilamide powder	...	... 2 oz.	4 oz.	4 oz.
Tab. Digoxin or Pill Digitalis Co. B.P.C.	...	... 20	20	20
Tabs. Laxative Co. B.P.C.	...	... 25	50	50
Tetrachlorethylene	...	... ½ oz.	1 oz.	1 oz.
Tinct. Belladonna	...	... 2 oz.	2 oz.	4 oz.
Tinct. Benjoin Co.	...	... 2 oz.	4 oz.	4 oz.
Tinct. Camphor Co.	...	... 2 oz.	4 oz.	4 oz.
Tinct. Card. Co.	...	... 2 oz.	4 oz.	4 oz.
Tinct. Chloroformet morph.	...	...	2 oz.	4 oz.
Tinct. Hyoseyamus	...	... 2 oz.	4 oz.	4 oz.
Tinct. Iodine	...	... 2 oz.	4 oz.	8 oz.
Ung. Sulphuris B.P.C.	...	... 4 oz.	4 oz.	8 oz.

	1	2	3	4
Vaseline ...	...	4 oz.	8 oz.	8 oz.
Vin Ipecac or tinct. or liq. ...	...	2 oz.	4 oz.	4 oz.
Vitamin C. ...	...	20 tabs.	40 tabs.	40 tabs.
Zinc. Oxide ...	...	2 oz.	4 oz.	4 oz.
Adrenalin Hydrochloride Liquor (1:1000) ...	...	1 oz.	1 oz.	1 oz.
Coramine or Nikethemide ...	...	5 amp.	5 amp.	5 amp.
Emetine Hydrochlor (amp. or tab.)				
Gr. 1 ...	...	20	40	60
Gr. $\frac{1}{2}$ ...	...	20	40	60
Injectio Quinine Gt. 10 ...	...	10 amp.	10 amp.	10 amp.
Percaine Hydrochlor or Novocain 2% amp.	...	...	6	6
Serum Anti-venom ...	...	2 amp.	2 amp.	2 amp.
Serum Tatanus anti toxin 1500 units ...	...	6 amps.	6 amps.	12 amps.
Soluseptasine or other injectable sulphamide ...	...	3 amps.	6 amps.	6 amps.
Tab. Atropine (1/100 gr.) ...	...	1 tube	1 tube	1 tube
Tab. Morphine ( $\frac{1}{2}$ gr.) ...	...	1 tube	1 tube	1 tube

*Dressings.*

Bandage roller 6" ...	...	6	6	12
Bandage roller 4" ...	...	6	6	12
Bandage roller 3" ...	...	6	6	12
Bandages Triangular ...	...	6	6	6
Cotton Wool ...	...	1 lb.	1 lb.	1 lb.
Gauge 1 yd. each ...	...	6	12	12
Lint ...	...	4 oz.	4 oz.	8 oz.
Plaster of paris bandages 4" ...	...	...	6	6
Plaster of paris bandages 3" ...	...	...	6	6
Strapping adhesive 12 roller ...	...	1	1	1
Strapping adhesive 2 roller ...	...	1	1	1
Strapping adhesive 3 roller ...	...	1	1	1

*Medical and Surgical Equipment.*

Basin ...	...	1	2	2
Bowls E.I. 4" ...	...	1	1	2
Bowls E.I. 8" ...	...	1	1	2
Catheters rubber (size 8 and 10) ...	...	2	2	2
Cup feeding ...	...	1	1	1
Douche can with fittings ...	...	...	1	1
Drums dressing ...	...	1	1	1
Examination lamp ...	...	1	1	1
Forceps artery ...	...	2	2	2
Forceps Cheatle ...	...	1	1	1
Forceps Dissecting plain ...	...	1	1	1
Forceps Dissecting toothed ...	...	...	1	1
Hammer percussion ...	...	1	1	1
Jug measure ...	...	1	1	1
Lancet vaccination ...	...	...	1	1
Mirror forehead ...	...	1	1	1
Needle aneurysm ...	...	...	1	1
Needles suture assorted ...	...	6	6	12
Probe ...	...	1	2	2
Razor safety ...	...	1	1	1
Roger's cholera apparatus or apparatus intravenous ...	...	1	1	1
Stethoscope ...	...	1	1	1
Syringes 2 c.c. ...	...	1	1	1
Syringes 10 c.c. ...	...	1	1	1
Syringes 20 c.c. or above ...	...	...	1	1
Spygmonanometer ...	...	...	1	1
Speculum Nasal ...	...	1	1	1
Speculum Aural ...	...	1 set	1 set	1 set
Stove Primes ...	...	1	1	1
Scapels ...	...	1	2	2

1	2	3	4
Skinner's mask ... ..	...	1	1
Stretcher ... ..	1	1	1
Syringes ear ... ..	...	1	1
Spud, eye ... ..	...	1	1
Splint leg Thomas (medium) ... ..	...	1	1
Splinting wire crammer ... ..	...	1	1
Scissors straight both ends sharp ... ..	1	1	1
Scissors straight Mayo ... ..	...	1	1
Sterilizer instrument portable ... ..	...	1	1
Thermometers ... ..	1	1	1
Tongue depressor ... ..	1	1	1
Tape measure ... ..	1	1	1
Best type chart ... ..	1	1	1
Tray dressing ... ..	1	2	2
Tray kidney ... ..	1	2	2
Tourniquet ... ..	1	1	1
Undine ... ..	1	1	1
Weighing machine ... ..	1	1	1
Water Proof sheets of 2 yds. ... ..	1	1	1

*Other Dispensary equipment.*

Blankets ... ..	2	2	2
Bin for soiled clothes ... ..	1	1	1
Bottles drop with grooved stoppers ... ..	1	2	2
Cork screw ... ..	1	1	1
Corks assorted ... ..	25	50	50
Dropper eye ... ..	2	2	2
Funnel 4 oz. glass or E. I. ... ..	1	1	1
Filter paper ... ..	1 pkt.	1 pkt.	1 pkt.
Gloves ... ..	1 pair	1 pair	1 pair
Litmus paper blue ... ..	1 pkt.	1 pkt.	1 pkt.
Litmus paper red ... ..	1 pkt.	1 pkt.	1 pkt.
Measure glass 8 oz. ... ..	1	1	1
Measure glass 2 oz. ... ..	1	1	1
Minim glass ... ..	1	1	1
Pestle and Mortar ... ..	1	1	1
Pin safety ... ..	6	6	6
Pot delf with cover ... ..	2	2	2
Spatula ... ..	1	1	1
Slab ointment ... ..	1	1	1
Soap ... ..	1 cake	1 cake	1 cake
Spirit lamp ... ..	1	1	1
Scales and weights ... ..	1	1	1
Slides ... ..	$\frac{1}{2}$ doz.	$\frac{1}{2}$ doz.	$\frac{1}{2}$ doz.
Scissors shop ... ..	1	1	1
Towels ordinary ... ..	2	2	4
Tin opener ... ..	1	1	1
Test tubes ... ..	4	6	6
Test tubes stand ... ..	1	1	1
Test tube holder ... ..	1	1	1
Urine glass specimen ... ..	1	2	2

*Furniture.*

Almirah ... ..	1	1	1
Benches ... ..	1	1	2
Chairs ... ..	2	2	4
Cup-board poison ... ..	1	1	1
Examination couch ... ..	1	1	1
Stools ... ..	2	2	4
Screen ... ..	1	1	2
Table Medical officer ... ..	1	1	2
Table dispensing ... ..	1	1	1
Table dressing ... ..	1	1	1



(See rule 32)

Name of Owner of Colliery.

**Full Address.**

Month of despatch ..... year 195

# 1. INDIAN LABOUR CODE

[illegible]

Certified that the above statements are true to the best of my knowledge and belief and are based on the records maintained in my colliery.

**No., date and place.**

**Signature**

Proprietor / Partner / Director / Agent / Manager.

## FORM E [See rule 37(1)]

*Confirmation of Provisional Assessment*

To

.....Colliery

.....Address.

With reference to the Return in Form D of the Coal Mines Labour Welfare Fund Rules, 1949, submitted by you in respect of the month of .....195..., you are hereby informed that the provisional assessment of cess on ..... tons amounting to Rs. .... (Rupees ..... ) only paid by you as per ..... Treasury Challan No. ...., dated ..... has been confirmed.

Commissioner.

Seal of the Commissioner.

No. ....

Date .....

Place .....

## Form F-1—Notice [See rule 37(2)(a)]

To

.....Colliery

.....Address.

Whereas I desire to satisfy myself that the return in Form D filled by you for the month of ..... 195 is correct and complete.

You are hereby directed to appear in person or through a duly authorised representative before ..... and to produce on ..... at ..... person ..... date ..... time ..... or cause to be produced at that time the accounts and documents, specified below, together with any objection which you may wish to prefer and to produce any evidence you may wish to do in support thereof.

In the event of your failure to comply with this notice, I shall proceed to assess the duty to the best of my judgment under rule 37 of the Coal Mines Labour Welfare Fund Rules, 1949 without further reference to you.

Commissioner.

Seal of the Commissioner.

No. ....

Date .....

Place .....

*Particulars of Accounts and Documents required*

1. Books of accounts for the month(s) in question in general and records of despatches together with records of bills in particular.
2. Complete record of road/river permits issued by the Coal Commissioner/Regional Coal Controller during the period in question in respect of this colliery.
3. Any other subsidiary record showing despatches by road/river made during the month(s).

## FORM F-2—Notice [See rule 37(3)]

To

.....Colliery

.....Address.

Whereas you have not furnished a return in Form D in respect of the month(s) of ..... 195, by the prescribed date(s).

You are therefore required to submit a return within one calendar month from the date of issue of this notice for the month(s) of ..... 195; in Form D of the Coal Mines Labour Welfare Fund Rules, 1949.

In the event of your failure to comply with this notice I shall proceed to assess the duty to the best of my judgment under rule 37 of the Coal Mines Labour Welfare Fund Rules, 1949, and you will also further be liable to a prosecution under rule 35.

Seal of the Commissioner.

No. ....

Commissioner.

Date .....

Place .....

#### FORM F-3—Notice [See rule 37(4)]

To,

.....Colliery

.....Address.

Whereas it appears that you have despatched coal/coke by road/river during the month(s) of ..... 195 , but have failed to furnish return in Form D under Rule 32 of the Coal Mines Labour Welfare Fund Rules, 1949.

You are, therefore, directed to appear in person or through a duly authorised representative before ..... at ..... on .....

..... person ..... place ..... date  
at ..... and to produce or cause to be produced at that time the accounts and  
time

documents specified below, lodge at that time any objection which you may wish to prefer and produce any evidence which you may wish to do in support thereof, and you will further be liable to a prosecution under rule 35.

In the event of your failure to comply with this notice I shall proceed to assess the cess to the best of my judgment under rule 37 of the Coal Mines Labour Welfare Fund Rules, 1949.

Seal of the Commissioner.

Commissioner.

No. ....

Date .....

Place .....

#### Particulars of Accounts and Documents required.

1. Books of accounts for the month(s) in question in general and records of despatches together with records of bills in particular.
2. Complete record of road/river permits issued by the Coal Commissioner/Regional Coal Controller during the period in question in respect of this colliery.
3. Any other subsidiary record showing despatches by road/river made during the month(s).

#### FORM G—Order of Assessment [See Rule 37(6)]

State in which the colliery is situated.

Assessment Case No. .... of 195 ..

1. Year of assessment ..... month for which assessment is made

2. Name of colliery assessed

3. Location of the colliery

4. Full postal address

5. Account books, etc., produced, if any

6. Rule and sub-rule under which assessment is made

7. Total tons of coal/coke despatched by road/river as per return furnished by the colliery ..... tons.

8. Total tons of coal/coke despatched by road/river as determined on the basis of the books of account produced or to the best judgment of the Commissioner.

9. Amount of cess assessed at the rate of ..... per ton of coal and coke despatched by road/river on the basis of item 8 above Rs. .... as.....

Assessment order in brief.

Commissioner.

Seal of the Commissioner.

No. ....

Date .....

Place .....

## COAL MINES LABOUR WELFARE OFFICE ESTAB. (CONTY. P. F.) RULES, 1951

Certified copies of the assessment order may be obtained from the Commissioner's Office on payment to him of a fee of Rs. 2/- for each copy. The amount paid on this account shall be credited by the Commissioner to the Central Head "P—Deposits and Advances—Part II Deposits not bearing interest—(B) Reserve Funds (Central)—Coal Mines Labour Housing and General Welfare Fund—General Welfare allotment—Miscellaneous Receipts."

### FORM H-1 Demand Notice (See Rule 37)

To ..... (Proprietor/Partner/Director/Manager/Agent) of .....  
(Colliery) at ..... P.O. .... District .....  
location of colliery  
in the State of.....

In continuation of the notice in form F-1/F-2/F-3 issued to you per registered post on the ..... day of ..... 195 you are hereby informed that your total despatch of \*coal/coke by \*road/river during the month(s) of ..... 195 has been finally determined at ..... tons and accordingly cess amounting to Rs. .... (Rupees ..... ) only is payable by you.  
in words

2. You are hereby directed to pay the sum of Rs. .... (Rupees ..... )  
in words

.....) only as detailed below into the nearest Government Treasury on or before the ..... day of ..... 195..... and to produce before the Commissioner a copy of the relevant Treasury Challan as proof of payment not later than the ..... day of ..... 195..... failing which the said sum of Rs. .... (Rupees ..... )  
in words  
.....) only will be recoverable from you as an arrear of land revenue.

Details of assessed amount .....

1. Amount of cess payable Rs. ....

2. Deduct amount already paid by you as per Treasury Challan No. ....  
dated .....

Net amount payable Rs. ....

Seal of the Commissioner

Commissioner.

No. ....

Date .....

Place .....

## COAL MINES LABOUR WELFARE OFFICE ESTABLISHMENT (CONTRIBUTORY PROVIDENT FUND) RULES, 1951

### Arrangement of Paragraphs

1. Short title.
2. Definitions.
3. Constitution and Management of the Provident Fund.
4. Applicability to non-pensionable employees.
5. Nomination.
6. Subscriber's Account.
7. Condition and rate of subscription.
8. Amount of subscription.
9. Realisation of subscription.
10. Contribution by the Welfare Fund.
11. Interest.
12. Advances.
13. Recovery of advances.
14. Recovery of interest.
15. Deductions.
16. Final withdrawal of accumulations in the Provident Fund.
17. Payment of total accumulations.

\* Strike out the number of form and words and phrases not applicable.

## **COAL MINES LABOUR WELFARE OFFICE ESTABLISHMENT (CONTRIBUTORY PROVIDENT FUND) RULES, 1951<sup>1</sup>**

In exercise of the powers conferred by section 10 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government hereby makes the following rules, namely:—

1. **Short title.**—(1) These rules may be called the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951.

(2) They shall be deemed to have come into force with effect from the 1st day of June 1947.

2. **Definitions.**—In these rules unless there is anything repugnant in the subject or context—

(i) 'Accounts Officer' means the Accountant-General, Bihar.

(ii) 'Commissioner' means the Coal Mines Labour Welfare Commissioner.

(iii) 'Emoluments' means pay, leave salary or subsistence grant, as defined in the Fundamental Rules and includes:—

(a) Any wages paid from the Welfare Fund to employees not remunerated by fixed monthly pay; and

(b) any remuneration of the nature of pay received in respect of foreign service (*i.e.* service rendered with any other employer with the permission of the Chairman, Coal Mines Labour Welfare Fund Advisory Committee).

(iv) 'Employee' means any person holding an appointment, the emoluments of which are paid from the Welfare Fund.

(v) 'Family' means:—

(a) in the case of male subscriber, the wife or wives and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which the parties belong to be entitled to maintenance she shall thenceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently indicates by express notification in writing to the Accounts Officer through the Commissioner that she shall continue to be so regarded; and

(b) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber by notification in writing to the Accounts Officer through the Commissioner expresses her desire to exclude her husband from her family, the husband shall thenceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently cancels formally in writing her notification excluding him.

Note I.—'Children' means legitimate children.

Note II.—An adopted child shall be considered to be a child only when the Commissioner or when any doubt arises in the mind of the Commissioner, the Solicitor to the Government of India, is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child.

(vi) 'Provident Fund' means the Coal Mines Labour Welfare Office Establishment Contributory Provident Fund.

(vii) 'Subscriber' means any employee of the Welfare Fund admitted to the Provident Fund.

(viii) 'Welfare Fund' means the Coal Mines Labour Welfare Fund constituted under the Coal Mines Labour Welfare Fund Act, 1947.

(ix) 'Year' means a financial year.

3. **Constitution and management of the Provident Fund.**—The Provident Fund shall be administered by the Commissioner and shall be maintained by the Accounts Officer in rupees in India.

4. These rules shall apply to all non-pensionable employees holding a substantive appointment:

Provided that employees in temporary service may also be admitted to the Provident Fund with the written consent of the Commissioner if they have been employed or in the opinion of the Commissioner are likely to be employed for at least three years:

Provided further that persons appointed on probation to substantive appointments or appointed to officiate in an office which is vacant or the permanent incumbent of which

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 127 dated the 17th January, 1951 in the Gazette of India, 1951, Part II—Sec. 3, p. 110.

does not draw any part of the pay or count service may, if they are confirmed without interruption, be allowed to join the Provident Fund with retrospective effect from the date of their joining the service.

Provided further that those employees serving in the Malaria Institute of India in connection with the Anti-malaria operations in the Coal-fields who were brought under the administrative control of the Commissioner with effect from the 1st March 1951, may also be allowed to join the Provident Fund with retrospective effect from the date of their joining the Institute.

NOTE:—No employee who is in receipt of a pension from Government shall be admitted to the Provident Fund.

**5. Nomination.**—(1) A subscriber shall, as soon as may be after joining the Provident Fund, send to the Commissioner a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Provident Fund in the event of his death before that amount has become payable, or having become payable has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1) he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) Every nomination shall be in such one of the Forms set forth in the First Schedule as is appropriate in the circumstances.

(4) A subscriber may at any time cancel a nomination by sending a notice in writing to the Accounts Officer.

Provided that the subscriber shall along with such notice send a fresh nomination made in accordance with the provisions of this rule.

(5) A subscriber may provide in a nomination—

(a) in respect of any specified nominee that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person as may be specified in the nomination;

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein; provided that if at the time of making the nomination the subscriber has no family, he shall provide in the nomination that it shall become invalid in the event of his subsequently acquiring a family.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-rule (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of sub-rule (5) of the proviso thereto, the subscriber shall send to the Accounts Officer a notice in writing cancelling the nominations together with a fresh nomination made in accordance with the proviso of this rule

(7) Every nomination made, and every notice of cancellation given by a subscriber shall, to the extent that it is valid, take effect on the date on which it is received by the Accounts Officer.

**6. Subscriber's account.**—An account shall be prepared in the name of each subscriber and maintained by the Accounts Officer in the form set forth in the Second Schedule appended to these rules.

**7. Conditions and rate of subscription.**—(1) A subscriber shall subscribe monthly to the Provident Fund when on duty or foreign service.

(2) A subscriber may, at his election, not subscribe during leave.

(3) A subscriber shall intimate his election not to subscribe during leave by a written communication to the Accounts Officer through the Commissioner before he proceeds on leave.

(4) Failure to make due and timely intimation shall be deemed to constitute an election to subscribe.

(5) The election of a subscriber intimated under this sub-rule shall be final.

(6) A subscriber shall not subscribe to the Provident Fund when on extraordinary leave without pay or under suspension. He shall, however, on return from a period of such leave without pay or on re-instatement after a period passed under suspension, be allowed the option to subscribe for that period, at the discretion of the Commissioner.

The amount of subscription to be paid shall also be determined by the Commissioner the general principle to be observed being that the subscription should be calculated on half the emoluments drawn by the employee before he proceeded on leave without pay or was placed under suspension.

8. (1) The amount of subscription shall be fixed by the subscriber himself subject to the following conditions:—

(a) it shall be expressed in whole rupees:

Provided that if the emoluments of the subscriber do not exceed fifty rupees a month, the amount may be any multiple of a half rupee, and

(b) it may be any sum so expressed at a rate not less than  $6\frac{1}{4}$  per cent. (i.e. one anna in the rupee) of his monthly emoluments.

Provided that in the case of an employee who under these Rules is allowed to join the Provident Fund with retrospective effect, such monthly subscription shall not be less than ten per cent of his pay until all arrears of such subscriptions are paid up in full.

(2) For the purpose of sub-rule (1) the emoluments of a subscriber shall be—

(a) in the case of a subscriber who was on duty on the 31st March of the preceding year, the emoluments to which he was entitled on that date;

(b) in the case of a subscriber admitted to the Provident Fund on a subsequent date, the emoluments to which he was entitled on such subsequent date;

(c) in the case of a subscriber who was on deputation out of India on the said date or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty; and

(d) in the case of a subscriber who was on leave on the said date and elected not to subscribe during such leave or was under suspension on the said date the emoluments to which he was entitled on the first day after his return to duty.

(3) The subscriber shall intimate the fixation of the amount of his monthly subscription for each year on the basis of his emoluments and rate permissible.

(4) The subscriber shall be permitted to increase the amount of subscription once at any time during the course of the year; there shall, however, be no corresponding increase in the Welfare Fund's contribution:

Provided that if a subscriber is on duty for a part of a month and on leave for the remainder of that month and if he has elected not to subscribe during leave the amount of the subscription shall be proportionate to the number of days spent on duty in the month.

9. Realisation of subscription.—(1) When the emoluments are drawn on the establishment pay bills, recovery of subscription to and the principal and interest of advances granted from the Provident Fund shall be made by deduction from the pay bills.

(2) When the emoluments are drawn otherwise, the subscriber shall forward his dues monthly to the Accounts Officer.

10. Contribution by the Welfare Fund.—(1) The Commissioner shall make yearly a contribution to the account of each subscriber from the Welfare Fund;

Provided that if a subscriber quits service or dies during the course of a year, proportionate contribution shall be credited to his account for the period between the close of the preceding year and the date of his retirement or death as the case may be.

(2) The rate of contribution made by the Commissioner shall be  $6\frac{1}{4}$  per cent. (1/16th) of the subscriber's emoluments drawn on duty or if he has been on leave and elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty.

Provided that in case of employees who are allowed to join the Provident Fund with retrospective effect such contribution shall not be less than ten per cent. of the subscriber's emoluments until all arrears of such contributions are paid up in full.

(3) The amount of contribution shall be rounded off to the nearest whole rupee (eight annas counting as the next higher rupee).

11. Interest.—(1) The Commissioner shall pay to the credit of the account of a subscriber interest at such rate as the Central Government may from time to time prescribe for the payment of interest on a subscriber's accumulations in the Provident Fund.

(2) In addition to any amount to be paid under rule 17, interest thereon upto the end of the month preceding that in which payment is made, or upto the end of the sixth

month after the month in which such amount became payable, whichever of these periods be less, shall be payable to the persons to whom such amount is to be paid; provided that no interest shall be paid in respect of any period after the date which the Accounts Officer has intimated to that person (or his agent) as the date on which he is prepared to make payment in cash, or if he pays by cheque, after the date on which the cheque in that person's favour is put in the post.

12. **Advances.**—When the pecuniary circumstances of a subscriber are such that indulgence is absolutely necessary, a temporary recoverable advance may, at the discretion of the Commissioner, be granted to a subscriber out of the amount standing to his credit in the Provident Fund, on the conditions that—

(i) the advance is required to pay expenses on behalf of a subscriber or his family on any of the following:—

- (a) prolonged illness or medical attention,
- (b) overseas passage for reasons of health or education, and
- (c) marriage, funerals or ceremonies which by his religion it is incumbent upon the subscriber to perform.

(ii) the advance is expressed in whole rupees and shall not, except for special reasons, exceed three month's pay of the subscriber and shall in no case exceed the amount of subscriptions and interest thereon standing to his credit in the Provident Fund.

(iii) a written request is made to the Commissioner showing reasons for the request;

Provided that if the reason is of a confidential nature it may be communicated to the Commissioner personally or confidentially.

13. Any advance shall be recovered from the subscriber in such number of equal monthly instalments as the Commissioner may direct but the number shall not be less than 12 unless the subscriber so elects or in any case more than 24, the amount of advance being raised or reduced, if necessary, to admit of the fixation of such instalments. The instalments shall be expressed in whole rupee and recovered from the subscriber's salary in the manner indicated in rule 9. The first instalment shall commence from the first payment of a full month's salary after the grant of advance.

14. After the principal of the advance has been fully repaid, interest thereon shall be recovered in one instalment at the rate of 1/5 per cent. of the principal for each month or broken portion of a month during the period between the drawal and complete repayment of the principal:

Provided that when the advance is distributed to be recovered in more than 19 instalments, the interest may be recovered in two instalments.

15. **Deductions.**—Subject to the condition that no deduction may be made which reduces the credit by more than the amount of any contribution by the Commissioner with interest thereon credited under rules 10 and 11 before the amount standing to the credit of a subscriber in the Provident Fund is paid out of the Fund, the Commissioner may direct the deductions therefrom and payment to the Welfare Fund of—

(a) any amount, if a subscriber has been dismissed from the service for grave misconduct:

Provided that, if the order of dismissal is subsequently cancelled, the amount so deducted shall, on his reinstatement in the service, be replaced at his credit in the Provident Fund;

(b) any amount if a subscriber resigns his employment under the Welfare Fund within five years of commencement of service thereof otherwise than by reasons of superannuation or a declaration by competent medical authority that he is unfit for further service; and

(c) any amount due under a liability incurred by the subscriber to the Welfare Fund:

16. **Final withdrawal of accumulations in the Provident Fund.**—The amount standing to the credit of a subscriber shall become payable at the time of quitting service or the death of the subscriber in the manner provided by these rules.

17. The total accumulations in the account of a subscriber less the amount of unrecovered advance and interest thereon, if any, shall be paid as follows:—

(i) to the subscriber on his ceasing to be an employee;

(ii) in the event of the death of the subscriber having made a nomination in accordance with these rules, to the nominee or nominees and in the event of such nominee or nominees pre-deceasing the subscriber, to the alternate nominee or nominees, in the manner indicated in the declaration form; or

(iii) in the event of the death of the subscriber without having made a nomination in accordance with these rules or whose nominee or nominees or alternate nominee or nominees has/have not survived the subscriber, to the legal heir or heirs of the subscriber on the



production by him/them of probate or letters of administration evidencing the grant to him/them of the administration of the estate of the subscriber or a certificate granted under the Indian Succession Act, 1925, entitling the holder thereof to receive payment of such amount:

Provided that if the amount of such accumulations does not exceed rupees five thousand it may be paid to any person appearing to the Commissioner to be entitled to receive it.

### FIRST SCHEDULE—[See rule 5(3)]

#### FORMS OF NOMINATION

I. When the subscriber has a family and wishes to nominate one member thereof.

I hereby nominate the person mentioned below, who is a member of my family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable or having become payable, has not been paid:—

Name and address of the nominee	Relationship with subscriber	Age	Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_

Signature of Subscriber.....

Two witnesses to signature.

1.....  
2.....

II. When the subscriber has a family and wishes to nominate more than one member thereof.

I hereby nominate the person mentioned below, who are members of my family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees	Relationship with subscriber	Age	*Amount or share of accumulations to be paid to each	**Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_

Signature of Subscriber.....

Two witnesses to signature.

1.....  
2.....

\*NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

\*\*NOTE.—Where a subscriber who has no family makes a nomination, he shall specify in the column that the nomination shall become invalid in the event of his subsequently acquiring a family.

III. When the subscriber has no family and wishes to nominate one person.

I, having no family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, hereby nominate the person mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid:—

Name and address of nominees	Relationship with subscriber	Age	**Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_

Signature of Subscriber.....

Two witnesses to signature.

1.....  
2.....

IV. When the subscriber has no family and wishes to nominate more than one person.

I, having no family as defined in rule 2 of the Coal Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1951, hereby nominate the persons mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees	Relationship with subscriber	Age	*Amount or share of accumulations to be paid to each	**Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_

Signature of Subscriber.....

Two witnesses to signature.

1.....  
2.....

\*NOTE.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

\*\*NOTE.—Where a subscriber who has no family makes a nomination, he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

## SECOND SCHEDULE.—PROVIDENT FUND ACCOUNT AND ABSTRACT BALANCE OF EACH SUBSCRIBER

Name of subscriber..... Appointment or appointments held Corresponding date(s)  
 Account No..... under the Welfare Fund..... of appointment.....  
 Date of admission to the Provident Fund..... Remarks or special provision, if any.....

Pay on 31st March of preceding year Rs..... 19- 19-	Subscription				Contribution by the Welfare Fund	
	Subscription	Refunds of withdrawals	Total	Withdrawals	Monthly bal- ance on which interest is calculated	Subscriber's emolu- ments drawn on duty or his leave salary, if he elects to subscribe during leave
April .. ..	..	..	..	..	..	..
May .. ..	..	..	..	..	..	..
June .. ..	..	..	..	..	..	..
July .. ..	..	..	..	..	..	..
August .. ..	..	..	..	..	..	..
September .. ..	..	..	..	..	..	..
October .. ..	..	..	..	..	..	..
November .. ..	..	..	..	..	..	..
December .. ..	..	..	..	..	..	..
January .. ..	..	..	..	..	..	..
February .. ..	..	..	..	..	..	..

SECOND SCHEDULE.—PROVIDENT FUND ACCOUNT AND ABSTRACT BALANCE OF EACH  
SUBSCRIBER—(Continued)

March	...	...	...
March (Final)	...	...	...
March (Supplementary)	...	...	...
		Total	...
Balance from 19	-19	...	...
Deposits and Refunds as above	...	...	...
Interest for 19	-19	...	...
		Total	...
Deduct—Withdrawals as above	...	...	...
Balance on 31st March 19	...	...	...
Calculated by	...	...	...
		Checked by	...
		Deduct—Withdrawals as above	...
		Balance on 31st March 19	...
		Checked by	...
		Total	...
		Contribution by the Welfare Fund on Rs. @	...
		Balance from 19	-19
		Interest for 19	-19
		Total	...

### Railway Officers to Certify the Amount of Excise Duty<sup>1</sup>

In pursuance of sub-rule (3) of rule 29 of the Coal Mines Labour Welfare Fund Rules, 1949, and in supersession of the Order of the Government of India in the late Department of Labour, No. LMW. 5(7)/45, dated the 17th July, 1946, the Central Government hereby appoints the officers specified in the first column of the Schedule hereto annexed to certify the amount of excise duty remitted under sub-rule (1) thereof by the Railway Administration concerned in respect of the Railway or each of the Railways specified in the corresponding entry in the second column of the said Schedule.

#### THE SCHEDULE

<i>Designation of Officer (1)</i>	<i>Name of Railway or Railways (2)</i>
1. The Financial Adviser and Chief Accounts Officer, Bengal Nagpur Railway.	Bengal Nagpur Railway.
2. The Financial Adviser and Chief Accounts Officer, Oudh Tirhut Railway.	Oudh Tirhut Railway.
3. The Financial Adviser and Chief Accounts Officer, Bombay, Baroda & Central India Railway.	Bombay, Baroda & Central India Railway.
4. The Financial Adviser and Chief Accounts Officer, Madras & Southern Mahratta Railway.	Madras & Southern Mahratta Railway.
5. The Financial Adviser and Chief Accounts Officer, South Indian Railway.	South Indian Railway.
6. The Chief Accounts Officer, Nizam's State Railway.	Nizam's State Railway.
7. The Chief Accounts Officer, Jodhpur Railway.	Jodhpur Railway.
8. The Deputy Chief Accounts Officer, Assam Railway.	Assam Railway.
9. The Financial Adviser and Chief Accounts Officer, East Indian Railway.	East Indian Railway.
10. The Financial Adviser and Chief Accounts Officer, Great Indian Peninsula Railway.	Great Indian Peninsula Railway.
11. The Director, Railway Clearing Accounts Office.	Eastern Punjab Railway, and Jagadhri Light Railway.
12. The Deputy Chief Accounts Officer, Assam Railway.	Kalighat Falta Railway.
13. The Financial Adviser and Chief Accounts Officer, East Indian Railway.	Ahmadpur Katwa Railway, Bankura Damodar River Railway, Baraset Basirhat Railway, Bengal Provincial Railway, including Dasghara-Jamalpurganj Railway, Burdwan Katwa Railway, Calcutta Port Commissioner's Railway, Dehri Rohtas Light Railway, Howrah Amta Light Railway, Howrah Sheakhala Light Railway, India General Navigation Company, Rivers Steam Navigation Company, Bukhtiarpur Bihar Light Railway, Shahadra Saharanpur Light Railway, Arrah Sasaram Light Railway and Futwa Islampur Light Railway.

<sup>1</sup> Vide the Ministry of Labour Notification No. S.R.O. 557 dated the 14th April, 1951, published in the Gazette of India, 1951, Part II—Sec. 3, p. 600.

14. The Financial Adviser and Chief Accounts Officer, Great Indian Peninsula Railway.	Barsi Light Railway, Bombay Port Trust Railway.
15. The Chief Accounts Officer, Bikaner State Railway.	Bikaner State Railway.
16. The Chief Accounts Officer, Jaipur State Railway.	Jaipur State Railway.
17. The Chief Accounts Officer, Rajasthan Railway.	Rajasthan Railway.
18. The Chief Accounts Officer, Saurashtra Railway,	Saurashtra Railway.
19. The Chief Accounts Officer, Mysore State Railway.	Mysore State Railway.
20. The Chief Accounts Officer, Scindia State Railway.	Scindia State Railway.
21. The Chief Accounts Officer, Dholpur State Railway.	Dholpur State Railway.
22. The Financial Adviser and Chief Accounts Officer, Bombay, Baroda and Central India Railway.	Cutch State Railway.

### Apportionment of Excise Duty<sup>2</sup>

In exercise of the powers conferred by sub-section (1) of section 4 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government hereby directs that, with effect from the 1st April 1951, the proceeds of the duty levied under the said Act and credited to the Coal Mines Labour Housing and General Welfare Fund shall be apportioned between the Housing Account and the General Welfare Account in the following proportion, namely:—

Housing account	One anna and four pies.
General welfare account	Four annas and eight pies.

### Certifying Surgeons in Coal and Mica Mines<sup>3</sup>

In exercise of the powers conferred by sub-section (1) of section 11 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby appoints the Medical Officers of the Coal and Mica Mines Welfare Organisations, being qualified medical practitioners, specified in column 2 of the Schedule hereto annexed to be the Certifying Surgeons for the purposes of the said Act within the local limits or in respect of mines or class or description of mines specified in the corresponding entry of column 3 of the said Schedule.

#### THE SCHEDULE

Serial No.	Medical Officers	Limits of jurisdiction or mines or class or description of mines
1	2	3
<i>Coal Mines Welfare Organisation</i>		
1.	Medical Officer, Tisra Regional Hospital, P. O. Jharia (Manbhum).	All coal mines in the Jharia coalfield in the district of Manbhum (Bihar).
2.	Medical Officer, Bhuli Dispensary, P. O. Bhuli Township (Manbhum).	Do.
3.	Medical Officer, Katras Regional Hospital, J. O. Katrasgarh (Manbhum).	All coal mines in the Jharia coalfield in the districts of Manbhum and Hazaribagh (Bihar).

<sup>2</sup> Vide the Ministry of Labour Notification No. S.R.O. 536 dated the 11th April, 1951, published in the Gazette of India, 1951, Part Part II—Sec. 3, p. 601.

<sup>3</sup> Vide the Ministry of Labour Notification No. S.R.O. 800 dated the 26th Febry., 1954.

Serial No. 1	Medical Officers 2	Limits of jurisdiction of mines or class or description of mines. 3
4.	Medical Officer, Mugma Dispensary, P. O. Mugma (Manbhum).	All coal mines in the Ranigunj coalfield in the district of Manbhum (Bihar).
5.	Medical Officer, Searsole Regional Hospital, P. O. Searsole Rajbari (Burdwan).	All coal mines in the Ranigunj coalfield in the districts of Burdwan and Bankura (West Bengal).
6.	Medical Officer, Chora Regional Hospital, P. O. Burdwan, West Bengal	All coal mines in the Ranigunj coalfield in the districts of Burdwan and Bankura (West Bengal).
<i>Mica Mines Welfare Organisation</i>		
7.	Medical Officer, Mobile Medical Unit P. O. Kodarma (Hazaribagh).	All mica mines in the districts of Hazaribagh, Gaya, Monghyr and Bhagalpur (Bihar.)
8.	Medical Officer, Dhorakola Dispensary, P. O. Dhorakola (Hazaribagh)	All mica mines in the districts of Hazaribagh and Gaya (Bihar).
9.	Medical Officer, Dhab Dispensary, P. O. Dhab (Hazaribagh).	All mica mines in the district of Hazaribagh (Bihar).
10.	Medical Officer, Ganapatbagi Dispensary, P. O. Gawn (Hazaribagh).	Do.

## MICA MINES LABOUR WELFARE FUND ACT, 1946 (XXII OF 1946)

### Statement of Objects and Reasons<sup>1</sup>

It is urgently necessary to improve the living and working conditions of the labour employed in Mica Mining Industry. Though the industry is one of great importance to the country labour conditions are most deplorable and Government are convinced that they must intervene by initiating a scheme of welfare measures. A member of the Labour Investigating Committee was deputed to study the labour conditions in the Mica Mining areas and he has submitted a report making a number of recommendations. These *inter alia* include the working out of a comprehensive welfare scheme designed to improve the standard of living of the workers and to secure for them the requisite medical, educational, housing, water supply and other facilities. The present proposals relate only to the welfare of labour employed in the mines as distinct from factory labour for which the responsibility lies with the Provincial Governments. The mining industry has been consulted and there is a general agreement that a cess should be imposed on all exports of mica to finance the welfare scheme. While it may not be possible to find out immediately large sums of money required for the purpose Government feel that a start in this direction must be made at once by the creation of a Fund by the imposition of an *ad valorem* duty on all exports of mica. The Bill is designed to give effect to these proposals.

## MICA MINES LABOUR WELFARE FUND ACT, 1946 (XXII OF 1946)

### Arrangement of Sections

1. Short title and extent.
2. Imposition and collection of a cess.
3. Mica Mines Labour Welfare Fund.
4. Advisory Committees.
5. Appointment and powers of officers.
6. Power to make rules.

<sup>1</sup> Gazette of India, 1946, Part V, page 151.

# MICA MINES LABOUR WELFARE FUND ACT, 1946 (XXII OF 1946)<sup>1</sup>

[23rd April, 1946]

*An Act to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry.*

Whereas it is expedient to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry;

It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Mica Mines Labour Welfare Fund Act, 1946.

(2) It extends to the whole of India <sup>2</sup>[except the State of Jammu and Kashmir.]

**2. Imposition and collection of a cess.**—(1) With effect from such date<sup>3</sup> as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be levied and collected, as a cess for the purposes of this Act, on all mica, in whatever state, exported from <sup>4</sup>[the territories to which this Act extends] a duty of customs at such rate, not exceeding six and one-quarter *per centum ad valorem*, as may from time to time be fixed by the Central Government by notification in the official Gazette:

Provided that until the 1st day of April, 1947, the rate of duty so fixed shall not exceed two and one-half *per centum ad valorem*.

(2) On the last day of each month or as soon thereafter as may be convenient, there shall be paid to the credit of a fund to be called the Mica Mines Labour Welfare Fund (hereinafter referred to as the Fund) the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

**3. The Mica Mines Labour Welfare Fund.**—(1) The Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the mica mining industry.

(2) Without prejudice to the generality of sub-section (1), the Fund may be utilised to defray—

(a) the cost of measures for the benefit of labour employed in the mica mining industry directed towards—

(i) the improvement of public health and sanitation, the prevention of disease, and the provision and improvement of medical facilities,

(ii) the provision and improvement of water supplies and facilities for washing,

(iii) the provision and improvement of educational facilities,

(iv) the improvement of standards of living, including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities,

(v) the provision of transport to and from work;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1946, Part V, p. 151; see also page 552 ante and for Report of the Select Committee, see Gazette of India, 1946, Part V, page 185.

<sup>2</sup> These words were substituted for the words "except Part B States" by the Part B States (Laws) Act, 1951 (III of 1951).

<sup>3</sup> 2½% *ad valorem* duty levied from 1st April, 1947.

<sup>4</sup> These words were substituted for the words "Part A States and Part B States" by the Part B States (Laws) Act, 1951 (III of 1951).



(b) the grant to a <sup>5</sup>[State] Government, a local authority or the owner, agent or manager of a mica mine, of money in aid of any scheme approved by the Central Government for any purpose for which the Fund may be utilised;

(c) the cost of administering the Fund, including the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and allowances, if any, of officers appointed under section 5;

(d) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(3) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

(4) The Central Government shall publish annually in the official Gazette report of the activities financed from the Fund, together with an estimate of receipts and expenditure of the Fund and a statement of accounts.

**4. Advisory Committees.**—(1) The Central Government shall constitute <sup>6</sup>[as many Advisory Committees as it thinks fit but not exceeding one in each State] to advise the Central Government on any matters arising out of the administration of this Act or the Fund.

(2) The members of the Advisory Committees shall be appointed by the Central Government, and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act:

Provided that each Committee shall include an equal number of members representing mica mine owners and workmen employed in the mica mining industry, and that at least one member of each Committee shall be a woman, and at least one member of each Committee shall be a member of the Legislature of the <sup>5</sup>[State] concerned.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the official Gazette the names of all members of the Advisory Committees.

**5. Appointment and powers of officers.**—(1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers as it thinks necessary to administer the Fund or to supervise or carry out the activities financed from the Fund.

(2) Every officer so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(3) Any Inspector or Welfare Administrator may—

(a) with such assistance, if any, as he thinks fit, enter at any reasonable time any place which he considers it necessary to enter for the purpose of supervising or carrying out the activities financed from the Fund, and

(b) do within such place anything necessary for the proper discharge of his duties.

**6. Power to make rules.**—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the purposes of this Act.

<sup>5</sup> Substituted for the word "Province" by A. O. 1950.

<sup>6</sup> These words were substituted for the words "two Advisory Committees, one for the Province of Madras and one for the Province of Bihar," by Act III of 1951.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the making of refunds, remissions and recoveries of the duty of customs imposed by sub-section (1) of section 2;
- (b) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business;
- (c) the conditions governing the grant of money from the Fund under clause (b) of sub-section (2) of section 3;
- (d) the form of the estimate and statement referred to in sub-section (4) of section 3;
- (e) the conditions of service and the duties of all officers appointed under section 5;
- (f) the furnishing by owners or agents or managers of mica mines of statistical or other information, and the punishment by fine on failure to comply with the requirements of any rule made under this clause.

## MICA MINES LABOUR WELFARE FUND RULES, 1948

### Arrangement of Paragraphs

- 1. Short title and extent.
- 2. Definitions.
- 3. Composition of Advisory Committees.
- 4. Terms of office.
- 5. Power to co-opt.
- 6. Resignation.
- 7. Absence from India.
- 8. Vacation of office.
- 9. Disposal of business.
- 10. Time and place of meetings.
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- 26. Credit to the Fund.
- 27. Refund and recovery of cess.
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- 29. Statement of Accounts.
- 30. Statistical and other information to be furnished.

## MICA MINES LABOUR WELFARE FUND RULES, 1948<sup>1</sup>

In exercise of the powers conferred by section 6 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), the Central Government is pleased to make the following rules, namely:—

1. **Short title and extent.**—(1) These rules may be called the Mica Mines Labour Welfare Fund<sup>2</sup> \* \* \* Rules, 1948.

(2) They extend to <sup>3</sup>[the whole of India except the State of Jammu and Kashmir.]

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

(1) "the Act" means the Mica Mines Labour Welfare Fund Act, 1946.

(2) "Advisory Committee" means the Advisory Committee constituted under section 4 of the Act,

(3) "Member" means a member of the Advisory Committee present in India.

3. **Composition of Advisory Committees.**—(1) (a) The Committee for the State of Bihar shall consist of the following members, namely:—

(i) An Officer to be appointed by the Central Government called the Welfare Commissioner;

(ii) The Mica Controller, Bihar;

(iii) The Commissioner of Labour, Bihar;

(iv) A Member of the Bihar Legislative Council or Assembly nominated by the Central Government on the recommendation of the Government of Bihar;

(v) Three persons nominated by the Central Government, in consultation with the association, if any, representing mica mine owners of Bihar;

(vi) Three persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Bihar;

(vii) A woman nominated by the Central Government on the recommendation of the Government of Bihar, if no woman has been nominated under clause (vi);

(b) The Welfare Commissioner shall be the Chairman of the Advisory Committee for the State of Bihar and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members.

(2) (a) The Advisory Committee for the State of Andhra shall consist of the following members, namely:—

(i) The Collector of Nellore;

(ii) The President of the District Board, Nellore;

(iii) A Member of the Andhra Legislative Council or Assembly nominated by the Central Government on the recommendation of the Government of Andhra;

<sup>4</sup>[(iv) One representative of the Central Government;]

(v) Two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Andhra;

(vi) Two persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Andhra;

(vii) A woman nominated by the Central Government on the recommendation of the Government of Andhra, if no woman has been nominated under clause (vi).

(b) The Collector of Nellore shall be the Chairman of the Advisory Committee for the State of Andhra and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members.

<sup>5</sup>[(3) (a) The Advisory Committee, for the State of Rajasthan shall consist of the following members, namely:—

(i) The Labour Commissioner, Rajasthan;

(ii) One representative of the Central Government;

<sup>1</sup> These Rules were published in the Gazette of India, Part I, dated the 10th January, 1948 under Ministry of Labour Notification No. LMW 5(8)/46, dated the 2nd January, 1948.

<sup>2</sup> The words and bracket "(Bihar and Madras)" were omitted by Ministry of Labour Notification No. S.R.O. 2054 dated the 13th December, 1951.

<sup>3</sup> These words were substituted for the words "States of Bihar and Madras," *ibid*.

<sup>4</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 812 dated the 15th October, 1950.

<sup>5</sup> Sub-rule (3) was added by the Ministry of Labour Notification No. S.R.O. 2054 dated the 13th December, 1951.

- (iii) A member of the Rajasthan Legislative Assembly nominated by the Central Government on the recommendation of the Government of Rajasthan;
- (iv) Two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Rajasthan;
- (v) Two persons nominated by the Central Government, to represent the interests of workmen employed in the mica mining industry of Rajasthan;
- (vi) A woman nominated by the Central Government on the recommendation of the Government of Rajasthan, if no woman has been nominated under clause (v).

(b) The Labour Commissioner, Rajasthan, shall be the Chairman for the Advisory Committee for the State of Rajasthan and the Vice-Chairman of the Committee shall be appointed by the Central Government from among the other members.]

\*[(4) (a) The Advisory Committee for the State of Ajmer shall consist of the following members, namely:—

- (i) the Deputy Commissioner, Ajmer;
- (ii) the Labour Officer, Ajmer;
- (iii) one representative of the Central Government;
- (iv) a member of the Ajmer Legislative Assembly (when it is constituted) nominated by the Central Government on the recommendation of the Government of Ajmer;
- (v) two persons nominated by the Central Government, in consultation with the associations, if any, representing mica mine owners of Ajmer;
- (vi) two persons nominated by the Central Government to represent the interests of workmen employed in the mica mining industry of Ajmer;
- (vii) a woman nominated by the Central Government, if no woman has been nominated under clause (vi).

(b) The Deputy Commissioner, Ajmer, shall be the Chairman of the Advisory Committee for the State of Ajmer and the Vice-Chairman of the Committee shall be appointed by the Central Government from among other members.]

**4. Terms of office.**—(1) A nominated member shall, unless, he resigns his office or dies at an earlier date, hold office for a period of 3 years from the date of the notification appointing him a member of the Advisory Committee and shall be eligible for renomination:

Provided that an outgoing member may continue in office until the appointment of his successor is notified in the *Gazette of India*.

(2) A member nominated to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

**5. Power to co-opt.**—(1) The Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-rule (1) shall exercise all the powers and functions of a member under these rules but shall not be entitled to vote.

**6. Resignation.**—A non-official nominated member may resign his office by letter addressed to the Chairman.

**7. Absence from India.**—(1) Before a non-official nominated member leaves India,—

- (a) he shall intimate to the Chairman the date of his departure from and the date of his expected return to India, or
- (b) if he intends to be absent from India for a period longer than six months, he shall tender his resignation.

(2) If any nominated member leaves India without taking action as required by sub-rule (1), he shall be deemed to have resigned with effect from the date of his departure from India.

**8. Vacation of office.**—A nominated member shall be deemed to have vacated his office—

- (a) if he becomes insolvent; or
- (b) if he is convicted of any offence which in the opinion of the Central Government involves moral turpitude; or

\* Sub-rule (4) was added by Ministry of Labour Notification No. S.R.O. 246 dated the 29th January, 1952.

(c) if he is absent from meetings of the Advisory Committee for three consecutive meetings without leave of absence from the Chairman; or

(d) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member of the Committee.

**9. Disposal of business.**—(1) Every question which the Advisory Committee is required to take into consideration shall be considered either at a meeting or, if the Chairman so directs, by sending the necessary papers to every member for opinion.

(2) When a question is referred to the Advisory Committee for opinion, any member may request that the question be considered at a meeting and thereupon the Chairman may, and if the request is made by five or more members shall, direct that it be so considered.

**10. Time and place of meetings.**—The Advisory Committee shall meet at such places and times as may be appointed by the Chairman.

**11. Remuneration of members.**—Each non-official member, including a non-official member co-opted under rule 5, shall be paid an allowance of Re. 10 for each meeting of the Advisory Committee or Finance Sub-Committee attended by him, subject to a maximum of Re. 30 for any one calendar month, and his travelling expenses subject to the condition that they shall not exceed the rates admissible to Central Government servants of the first grade for a journey on tour. Where the journey is performed entirely by road, mileage at the rates admissible to Central Government servants of the first grade shall be paid subject to the condition of furnishing a certificate to the effect that the journey was undertaken by road to avoid loss of time which the journey by rail would have entailed and subject also to the condition that the distance travelled did not exceed 75 miles in a single journey.

**12. Notice of meetings and list of business.**—(1) Notice of not less than 15 days from the date of posting shall be given to every member of the time and place fixed for each ordinary meeting, and every member shall be furnished with a list of business to be considered at the meeting:

Provided that when an emergency meeting is called by the Chairman such notice shall not be necessary.

(2) No business which is not on the list shall be considered at a meeting without the permission of the Chairman.

**13. Advisory Committee to be informed of expenditure.**—A memorandum detailing any grants made or expenditure incurred from the Fund since the last meeting shall be laid before each meeting of the Advisory Committee.

**14. Other matters to be considered by Advisory Committee.**—(1) The Advisory Committee shall, besides carrying out its statutory duties, consider and advise upon any matter concerning these Rules, referred to it by the Central or Provincial Government for advice.

(2) The Advisory Committee shall also consider the budget and any matter that may be laid before it by the Chairman. It shall be obligatory on the Chairman to place before the Advisory Committee any matter at the request of not less than five members.

**15. Presiding at meetings.**—The Chairman shall preside at every meeting at which he is present and in his absence the Vice-chairman shall preside.

**16. Quorum.**—No business shall be transacted at a meeting of the Advisory Committee whether an ordinary or emergency meeting unless at least three members having the right to vote are present of whom the Chairman or Vice-Chairman shall be one:

Provided that if at any meeting less than three such members attend, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and notifying other members that he proposes to dispose of the business at the adjourned meeting whether there is a quorum or not and it shall thereupon be lawful to dispose of the business at the adjourned meeting irrespective of the number of members attending it.

**17. Recommendation by majority.**—(1) Every question at a meeting of the Advisory Committee shall be decided by a majority of votes of the members present and voting but the minority shall in all cases have the right of requiring their dissent to be noted.

(2) Every question referred to the members for opinion shall, unless the Chairman in pursuance of sub-rule (2) of rule 9 reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority recording opinion within the time allowed.

(3) In the case of an equal division of votes or opinions the Chairman shall give an additional vote or opinion.

**18. Minutes of meetings.**—(1) The proceedings of each meeting of the Advisory Committee shall be circulated to all members and thereafter recorded in a minute book, which shall be kept for permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman or Vice-Chairman, as the case may be.

**19. Headquarters of the Advisory Committees.**—(1) The headquarters of the Advisory Committee for the State of Bihar shall be at such place as may be fixed by the Central Government and of <sup>7</sup>[the Advisory Committee for any other State at such place as may be fixed by the State Government concerned.].

(2) The Chairman, Vice-Chairman and Secretary of the Advisory Committee shall be the executive of the Committee and exercise the executive functions of the Committee on behalf of the Committee.

**20. Staff of the Advisory Committees.**—(1) Subject to the budget provision, and the provisions of rule 24, the Chairman of each Advisory Committee may appoint technical and secretarial staff including a Secretary (who shall ordinarily be a whole-time officer paid from the Fund) to assist him in carrying out his duties, may fix the scale of establishment and the salaries and allowances and determine other conditions of service of officers and servants employed by him including the security to be taken from them:

Provided that the creation of a post carrying a salary exceeding Rs. 100 per month for more than six months and appointment thereto shall require the previous sanction of the Central Government:

Provided further that the scales of pay of servants appointed by the Chairman under this sub-rule shall be in accordance with the scales sanctioned by the Central Government for similar posts.

(2) Persons appointed by the Chairman and paid from the Fund shall not be deemed to be Government servants notwithstanding that the Central Government may direct any service rules applicable to Government servants may apply with or without modifications to such persons.

(3) The Chairman may authorize the technical and secretarial staff to give technical and secretarial assistance to the Finance Sub-Committee or to any other authority exercising advisory functions in connection with the Act or to any person or authority expending grants obtained from the Fund.

**21. Finance Sub-Committee.**—(1) The Advisory Committee shall elect from among its members four persons, of whom two shall be persons representing mica mine owners and two representing mica mine workers, to a Finance Sub-Committee of which the Vice-Chairman of the Advisory Committee who shall be an additional member shall be the President.

(2) The Advisory Committee may at any time co-opt persons to the Finance Sub-Committee and a person co-opted shall exercise all the powers and functions of a member of such Sub-Committee, but shall not be entitled to vote and shall not solely by reason of being so co-opted be a member of the Advisory Committee.

(3) Notice of every meeting of the Finance Sub-Committee shall be sent to the Chairman of the Advisory Committee who may attend such meeting if he so desires, and if he does so attend, he shall notwithstanding anything in sub-rule (1) preside and shall be entitled to vote.

(4) The meetings and proceedings of the Finance Sub-Committee shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Advisory Committee in so far as the same are applicable thereto.

**22. Duties of the Finance Sub-Committee.**—The duties of the Finance Sub-Committee shall be to frame schemes of expenditure, to advise on the budget drawn up by the executive of the Advisory Committee and on the accounts of the Advisory Committee and also in regard to all expenditure debitable to the Fund, and to consider all schemes referred to in proviso (ii) to rule 24.

**23. Budget.**—(1) The annual budget of the Fund as prepared by the executive of the Committee shall be considered by the Advisory Committee\* \* \* of each year. The budget as approved by the Advisory Committee shall be submitted <sup>9</sup>[not later than the 1st day

<sup>7</sup> Substituted by the Ministry of Labour Notification No. S.R.O. 2054 dated the 13th December 1951.

\* Omitted by the Ministry of Labour Notification No. S.R.O. 307 dated the 21st February, 1951.

<sup>9</sup> Substituted, *ibid*.

of October each year] for sanction to the Central Government, which may make such alterations therein as it considers suitable:

Provided that the <sup>10</sup>[Advisory Committee for a State other than the State of Bihar shall submit its budget to the Central Government through the State Government].

(2) The budget to be forwarded to the Central Government shall be accompanied by detailed self-contained notes explaining any new schemes included therein.

**24. Schemes of expenditure.**—(1) The sanction of the Central Government to the budget shall, if no specific mention is made to the contrary, be deemed to include sanction to expenditure on all the schemes included in the budget.

(2) The Chairman shall have power, subject to the provision in the sanctioned budget, to incur expenditure on administrative staff and welfare schemes:

Provided—

(i) that he shall have no power to sanction any scheme not included in the budget and involving a non-recurring expenditure exceeding Rs. 10,000 or a recurring cost exceeding Rs. 1,000 a year, and

(ii) that any new scheme within these limits shall require the approval of the Finance Sub-Committee before any expenditure on it is incurred.

**25. Distribution of cess.**—The proceeds of the cess available for distribution shall be distributed by the Central Government among mica producing areas in proportion to their production or in such manner as may be decided in consultation with the Governments of those areas.

<sup>11</sup>[**26. Credit to the Fund.**—The amount of cess collected shall be credited to the Central Revenue, as soon as it is collected, and an equivalent amount, after deduction of such percentage as the Central Government may fix by notification in the official Gazette shall be transferred simultaneously to the Fund in a special account under the Central Government to be maintained by such officer as the Central Government may appoint in this behalf.]

<sup>12</sup>[**27. Refund and recovery of cess.**—(1) Refund of cess erroneously levied or paid and recovery of cess short-levied or erroneously refunded shall be made in accordance with the provisions of the Sea Customs Act, 1878 (VIII of 1878), and the rules made thereunder relating to refund, remission and recovery of customs duties under that Act so far as the same may be applicable.

(2) When it is proved to the satisfaction of the Central Government or of any person authorised in this behalf by the Central Government, that any consignment of mica, once exported out of India, on which cess under section 2 of the Act had been collected, has actually been reshipped back to India for whatever reasons, the Central Government or the person so authorised may order refund of an amount equal to the cess so collected on such mica less the expenses for collection and recovery to the party from whom the cess was previously collected provided that the party concerned puts in a claim for refund within three months from the date on which the particular consignment of mica, so reshipped back, reaches India.]

**28. Conditions of grants to the Government of Andhra.**—(1) The Central Government shall furnish the Government <sup>13</sup>[of any State other than the State of Bihar] not later than the 1st day of July each year with an estimate of the proceeds of the cess likely to be made available for expenditure during the following financial year in the State. The Government of Andhra shall inform the Advisory Committee accordingly.

(2) The Government <sup>14</sup>[of such State] shall forward to the Central Government the budget submitted by the Advisory Committee not later than the 1st day of October each year. The Central Government may sanction the budget with or without modifications.

(3) The Central Government may give general or specific directions to the Government of Andhra for ensuring co-ordination and uniformity in the preparation of welfare schemes and for proper administration thereof.

<sup>10</sup> Substituted by the Ministry of Labour Notification No. S.R.O. 2054 dated the 13th December, 1951.

<sup>11</sup> This rule was substituted for the sub-rules (1) and (2) by the Ministry of Labour Notification No. LW 23(1)/48, dated 29th July, 1948.

<sup>12</sup> This rule was substituted for the previous rule by the Ministry of Labour Notification No. S.R.O. 860 dated the 4th November, 1950.

<sup>13</sup> These words were substituted for the words "of Madras" by the Ministry of Labour Notification No. S.R.O. 2054 dated the 13th December, 1951.

<sup>14</sup> Substituted, *ibid.*

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**29. Statement of Accounts.**—The accounts of the Fund shall be maintained and audited in such manner and by such officers as may be approved by the Central Government.

**30. Statistical and other information to be furnished.**—(1) The owner, agent or manager of a mica mine shall furnish such statistics or other information, as the Central Government or any other person authorised by the Central Government in writing in this behalf may by written order require for the purpose of the Act, in such form or manner and within such time as may be specified in the order.

(2) Any owner, agent or manager of a mica mine who without reasonable excuse fails to furnish the statistical or other information as required under sub-rule (1) or furnishes statistical or other information containing a statement, entry or detail which is not to the best of his knowledge or belief true, shall be punishable with fine which may extend to five hundred rupees.

## MICA MINES LABOUR WELFARE OFFICE ESTABLISHMENT (CONTRIBUTORY PROVIDENT FUND) RULES, 1950

### Arrangement of Paragraphs

1. Short title.
2. Definitions.
3. Constitution and management of the Provident Fund.
4. Rules applicable to employee of permanent and non-pensionable post.
5. Nomination.
6. Subscriber's Account.
7. Conditions and rate of subscription.
8. Amount of subscription.
9. Realisation of subscription.
10. Contribution by the Welfare Fund.
11. Interest.
12. Advances.
13. Recovery of advance.
14. Recovery of interest.
15. Deductions.
16. Final withdrawal of accumulations in the Provident Fund.
17. Payment of total accumulations.

### SCHEDULE.

## MICA MINES LABOUR WELFARE OFFICE ESTABLISHMENT (CONTRIBUTORY PROVIDENT FUND) RULES, 1950<sup>1</sup>

In exercise of the powers conferred by section 6 of the Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946), the Central Government is pleased to make the following rules, namely:—

**1. Short title.**—(1) These rules may be called the Mica Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1950.

(2) They shall be deemed to have come into force with effect from the 1st April, 1950.

**2. Definitions.**—In these rules unless the context otherwise requires—

<sup>2</sup>[(i)] 'Accounts Officer' means in relation to Ajmer, the Accountant General of Central Revenues and in relation to other States, the Accountant General of the respective States.

(ii) 'Controlling Officer' means in relation to Bihar, the Welfare Commissioner, Mica Mines Labour Welfare Fund, Dhanbad, and in relation to other States, the Chairman of the Mica Mines Labour Welfare Fund Advisory Committee for the respective States.]

(iii) 'Emoluments' means pay, leave salary or subsistence grant, as defined in the Fundamental Rules, and includes—

(a) any wages paid from the Welfare Fund to employees not remunerated by fixed monthly pay; and

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 774 dated the 30th September, 1950, in the Gazette of India, 1950, Part II—Sec. 3, p. 753.

<sup>2</sup> Substituted by Ministry of Labour Notification No. S.R.O. 1532 dated the 4th May, 1954.



(b) any remuneration of the nature of pay received in respect of foreign service (*i.e.*, service rendered with any other employer with the permission of the Controlling Officer.)

(iv) 'Employees' means any person holding an appointment, the emoluments of which are paid from the Welfare Fund.

(v) 'Family' means—

(a) in the case of male subscriber, the wife, or wives and children of the subscriber, and the widow, or widows and children of a deceased son of the subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance she shall henceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently indicate by express notification in writing to the Accounts Officer through the Controlling Officer that she shall continue to be so regarded;

(b) in the case of a female subscriber, the husband and children of the subscriber, and the widow or widows and children of a deceased son of the subscriber;

Provided that if a subscriber by notification in writing to the Accounts Officer through the Controlling Officer, expresses her desire to exclude her husband from her family, the husband shall thenceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently cancels formally in writing her notification excluding him.

NOTE 1.—'Children' means legitimate children.

NOTE 2.—An adopted child shall be considered to be a child when the Controlling Officer, or when any doubt arises in the mind of the Controlling Officer, the solicitor to the Government of India, is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child but in this case only.

(vi) 'Provident Fund' means the Mica Mines Labour Welfare Office Establishment Contributory Provident Fund.

(vii) 'Subscriber' means any employee of the Welfare Fund admitted to the Provident Fund.

(viii) 'Welfare Fund' means the Mica Mines Labour Welfare Fund constituted under the Mica Mines Labour Welfare Fund Act, 1946.

(ix) 'Year' means a financial year.

<sup>3</sup>[3. **Constitution and management of the Provident Fund.**—The Provident Fund shall be administered by the Controlling Officer and shall be maintained by the Accounts Officer in rupees in India.]

<sup>3</sup>[4. These rules shall apply to every employee holding a permanent and non-pensionable post in a substantive capacity: Provided that a person appointed on probation to a permanent post or appointed to officiate in a post which is vacant or the permanent incumbent of which does not draw any part of the pay or count service may, if he is confirmed without interruption, be allowed to join the Provident Fund with retrospective effect from the date of his joining the service. Provided further that an employee in temporary service may also be admitted to the Provident Fund, with the written consent of the Controlling Officer, with retrospective effect from the date he joined the service, if he has been employed in connection with the Fund for not less than a year and is in the opinion of the Controlling Officer likely to remain so employed for at least another two years.]

NOTE.—No employee who is in receipt of a pension from Government shall be admitted to the Provident Fund.]

<sup>3</sup>[5. **Nomination.**—(1) A subscriber shall as soon as may be after joining the Provident Fund, send to the <sup>4</sup>[Accounts Officer through the Controlling Officer] a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the Provident Fund in the event of his death before that amount has become payable, or having become payable has not been paid;

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

<sup>3</sup> Substituted by Ministry of Labour Notification No. S.R.O. 1532 dated the 4th May, 1954.

<sup>4</sup> Substituted by Ministry of Labour Notification No. S.R.O. 719 dated 23rd March, 1955.

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(2) If a subscriber nominates more than one person under sub-rule (i), he shall specify in the nomination the amount or share payable to each nominee in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) Every nomination shall be in such one of the Forms set forth in the First Schedule as is appropriate in the circumstances.

(4) A subscriber may at any time cancel a nomination by sending a notice in writing to the Accounts Officer through the Controlling Officer:

Provided that the subscriber shall along with such notice send a fresh nomination made in accordance with the provisions of this rule.

(5) A subscriber may provide in a nomination—

(a) in respect of any specified nominee that in the event of his predeceasing the subscriber, the right conferred upon that nominee shall pass to such other person as may be specified, in the nomination;

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein:

Provided that if at the time of making the nomination the subscriber has no family, he shall provide in the nomination that it shall become invalid in the event of his subsequently acquiring a family.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-rule (5) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of sub-rule (5) or the proviso thereto, the subscriber shall send to the Accounts Officer through the Controlling Officer a notice in writing cancelling the nominations together with a fresh nomination made in accordance with the provisions of this rule.

(7) Every nomination made, and every notice of cancellation given by a subscriber shall, to the extent that it is valid, take effect on the date on which it is received by the Accounts Officer through the Controlling Officer.]

**6. Subscriber's Account.**—An account shall be prepared in the name of each subscriber and maintained by the Accounts Officer in the form set forth in the Second Schedule appended to these rules.

<sup>5</sup>[The Accounts Officer shall issue to each subscriber an annual statement of account in the form set forth in the Third Schedule appended to these Rules.]

**7. Conditions and rate of subscriptions.**—(1) A subscriber shall subscribe monthly to the Provident Fund when on duty or foreign service.

(2) A subscriber may, at his election, not subscribe during leave.

(3) The subscriber shall intimate his election not to subscribe during leave by a written communication to the Accounts Officer through the Controlling Officer before he proceeds on leave.

(4) Failure to make due and timely intimation shall be deemed to constitute an election to subscribe.

(5) The election of a subscriber intimated under this <sup>6</sup>[rule] shall be final.

(6) A subscriber shall not subscribe to the Provident Fund on extraordinary leave without pay or under suspension. He shall, however, on return from a period of such leave without pay or on re-instatement after a period passed under suspension be allowed the option to subscribe for that period, at the discretion of the Controlling Officer. The amount of subscription to be paid shall also be determined by the Controlling Officer, the general principle to be observed being that the subscription should be calculated on half the emoluments drawn by the employee before he proceeded on leave without pay or was placed under suspension.

**8. (1)** The amount of subscription shall be fixed by the subscriber himself subject to the following conditions—

(a) It shall be expressed in whole rupees: Provided that if the emoluments of the subscriber do not exceed fifty rupees a month, the amount may be any multiple of a half rupee;

(b) It may be any sum so expressed at a rate not exceeding  $12\frac{1}{2}$  per cent. (*i.e.*, two annas in the rupee) and not less than  $6\frac{1}{4}$  per cent. (*i.e.*, one anna in the rupee) of his monthly emoluments.

<sup>5</sup> Added by Ministry of Labour Notification No. S.R.O. 1532 dated the 4th May, 1954.

<sup>6</sup> Substituted for the word "sub-rule," *ibid.*

<sup>7</sup>[Provided that in the case of an employee who under the Rules is allowed to join the Provident Fund with retrospective effect, such monthly subscription shall not be less than ten per cent. of his pay until all arrears of such subscriptions are paid up in full.]

<sup>8</sup>[In the case of a person already subscribing at a rate higher than 10 per cent. of his pay the amount paid in excess of 6½ per cent. of his pay shall be adjusted against the recovery of his arrears.]

(2) For the purpose of sub-rule (1) the emoluments of a subscriber shall be—

(a) in the case of a subscriber who was on duty on the 31st March of the preceding year, the emoluments to which he was entitled on that date;

(b) in the case of a subscriber admitted to the Provident Fund on a subsequent date, the emoluments to which he was entitled on such subsequent date;

(c) in the case of a subscriber who was on deputation out of India on the said date or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave the emoluments to which he would have been entitled had he been on duty; and

(d) in the case of a subscriber who was on leave on the said date and elected not to subscribe during such leave or was under suspension on the said date the emoluments to which he was entitled on the first day after his return to duty.

(3) The subscriber shall intimate the fixation of the amount of his monthly subscription for each year on the basis of his emoluments and rate permissible as provided in sub-rule (2). The amount so fixed shall remain unchanged throughout the year:

Provided that if a subscriber is on duty for a part of a month and on leave for the remainder of that month, and if he has elected not to subscribe during leave the amount of the subscription shall be proportionate to the number of days spent on duty in the month.

<sup>7</sup>[Provided further that if a subscriber is permitted to subscribe for the period of leave without pay or for the period spent under suspension, the amount of subscription shall be determined as provided in sub-rule (6) of rule 7.]

**9. Realisation of subscription.**—(1) When the emoluments are drawn on the establishment pay bills, recovery of subscription to and the principal and interest of advances granted from the Provident Fund shall be made by deduction from the pay bills.

(2) When the emoluments are drawn otherwise, the subscriber shall forward his dues monthly to the Accounts Officer.

**10. Contribution by the Welfare Fund.**—<sup>9</sup>(1) The Controlling Officer shall make yearly a contribution to the account of each subscriber from the Welfare Fund.

Provided that if a subscriber quits service or dies during the course of a year, proportionate contribution shall be credited to his account for the period between the close of the preceding year and the date of his retirement or death, as the case may be.

(2) The rate of contribution made by the Controlling Officer shall be 6½ per cent. (1/16th) of the subscriber's emoluments drawn during the year during which he subscribed to the Fund:

Provided that in case of an employee who is allowed to join the Provident Fund with retrospective effect such contribution shall not be less than ten per cent. of the subscriber's emoluments until all arrears of such contribution are paid up in full;

Provided further that for the period of leave during which he elected to subscribe the emoluments would mean the emoluments to which he would have been entitled had he been on duty, and for the period of leave without pay and for the period spent under suspension for which he was permitted to subscribe under sub-rule (6) of rule 7, the emoluments would mean the emoluments as determined by the Controlling Officer under the said rule.]

(3) The amount of contribution shall be rounded off to the nearest whole rupee, (eight annas counting as the next higher rupee).

**11. Interest.**—<sup>10</sup>[(1)] The Controlling Officer shall pay to the credit of the account of a subscriber interest, at such rate as the Central Government may from time to time prescribe for the payment of interest <sup>11</sup>[on a subscriber's accumulations in the Provident Fund.]

<sup>7</sup> Added by Notification No. S.R.O. 1532 dated the 4th May, 1954.

<sup>8</sup> Added by Notification No. S.R.O. 719 dated the 23rd March, 1955.

<sup>9</sup> Substituted by Notification No. S.R.O. 1532 dated the 4th May, 1954.

<sup>10</sup> Renumbered as sub-rule (1), *ibid.*

<sup>11</sup> Substituted, *ibid.*

<sup>12</sup>[(2) In addition to any amount to be paid under rule 17, interest thereon upto the end of the month preceding that in which payment is made, or upto the end of the sixth month after the month in which such amount became payable, whichever of these periods be less, shall be payable to the persons to whom such amount is to be paid; provided that no interest shall be paid in respect of any period after the date which the Accounts Officer has intimated to that person (or his agent) as the date on which he is prepared to make payment in cash, or if he pays by cheque, after the date on which the cheque in that person's favour is put in the post.

(3) Interest shall be credited with effect from the 31st March of each year in the following manner:—

- (i) on the amount at the credit of a subscriber on the 31st March of the preceding year, less any sums withdrawn during the current year—interest for twelve months;
- (ii) on sums withdrawn during the current year—interest from the 1st April of the current year up to the last day of the month preceding the month of withdrawal;
- (iii) on all sums credited to the subscriber's account after the 31st March of the preceding year—interest from the date of deposit up to the 31st March of the current year;
- (iv) the total amount of interest shall be rounded to the nearest rupee in the manner provided in sub-rule (3) of rule 10;

Provided that when the amount standing at the credit of a subscriber has become payable, interest shall thereupon be credited under this sub-rule in respect only of the period from the beginning of the current year or from the date of deposit, as the case may be, up to the date on which the amount standing at the credit of the subscriber became payable.]

**12. Advances.**—When the pecuniary circumstances of a subscriber are such that indulgence is absolutely necessary, a temporary recoverable advance may, at the discretion of the Controlling Officer, be granted to a subscriber out of the amount standing to his credit in the Provident Fund, on the conditions that—

- (i) the advance is required to pay expenses on behalf of a subscriber or his family on any of the following:
  - (a) Prolonged illness or medical attention,
  - (b) Overseas passage for reasons of health or education,
  - (c) marriage, funerals or ceremonies which by his religion it is incumbent upon the subscriber to perform.
- <sup>13</sup>[(d) education outside India, whether for an academic, technical, professional or vocational course,
- (e) medical, engineering and other technical or specialised courses in India beyond the High School stage, provided that the course of study is not less than three years.]
- (ii) the advance is expressed in whole rupees and shall not, except for special reasons, exceed three months' pay of the subscriber and shall in no case exceed the amount of subscriptions and interest thereon standing to his credit in the Provident Fund.

(iii) a written request is made to Controlling Officer showing reason for the request: Provided that if the reason is of a confidential nature it may be communicated to the Controlling Officer personally or confidentially.

<sup>14</sup>[13. Any advance shall be recovered from the subscriber in such number of equal monthly instalments as the Controlling Officer may direct but the number shall not be less than 12 unless the subscriber so elects or in any case more than 24, the amount of advance being raised or reduced, if necessary, to admit of the fixation of such instalments. The instalments shall be expressed in whole rupee and recovered from the subscriber's salary in the manner indicated in rule 9. Recovery shall commence on the first occasion after the advance is made on which the subscriber draws emoluments, other than leave salary or subsistence grant, for a full month.]

<sup>12</sup> Inserted by Notification No. S.R.O. 1532 dated the 4th May, 1954.

<sup>13</sup> Added, *ibid.*

<sup>14</sup> Rules 13 and 14 substituted for Rule 13, *ibid.*

<sup>15</sup>[*Explanation*.—Salary means duty pay and leave salary.]

<sup>14</sup>[14. After the principal of the advance has been fully repaid, interest thereon shall be recovered in one instalment at the rate of 1/5 per cent. of the principal for each month or broken portion of a month during the period between the drawal and complete repayment of the principal:

Provided that when the advance is distributed to be recovered in more than 19 instalments, the interest may be recovered in two instalments.]

<sup>16</sup>[15.] **Deductions.**—Subject to the conditions that no deductions may be made which reduce the credit by more than the amount of any contribution by the Controlling Officer with interest thereon credited under rules 10 and 11, before the amount standing to the credit of a subscriber in the Provident Fund is paid out of the Fund, the Controlling Officer may direct the deductions therefrom and payment to the Welfare Fund of—

(a) any amount, if a subscriber has been dismissed from the service for grave misconduct:

Provided that, if the order of dismissal is subsequently cancelled, the amount so deducted shall, on his reinstatement in the service, be replaced at his credit in the Provident Fund.

(b) any amount if a subscriber resigns his employment under the Welfare Fund within <sup>17</sup>[five years] of commencement of service thereof otherwise than by reasons of superannuation or a declaration by competent medical authority that he is unfit for further service;

(c) any amount due under a liability incurred by the subscriber to the Welfare Fund.

<sup>18</sup>[16.] **Final withdrawal of accumulations in the Provident Fund.**—The amount standing to the credit of a subscriber shall become payable at the time of quitting service or the death of the subscriber in the manner provided by these rules.

<sup>18</sup>[17.] The total accumulations in the account of a subscriber <sup>19</sup>[subject to any deductions under rule 15] shall be paid as follows:—

(i) to the subscriber on his ceasing to be an employee;

(ii) in the event of the death of the subscriber and to having made a nomination in accordance with these rules, to the nominee or nominees, and in the event of such nominee or nominees predeceasing the subscriber, to the alternate nominee or nominees, in the manner indicated in the declaration form; or

<sup>20</sup>[(ii) in the event of the death of the subscriber without having made a nomination in accordance with these rules or whose nominee or nominees or alternate nominee or nominees has/have not survived the subscriber, to the members of his family in equal shares:

Provided that no share shall be payable to—

(a) sons who have attained legal majority;

(b) sons of a deceased son who have attained legal majority;

(c) married daughters whose husbands are alive;

(d) married daughters of a deceased son whose husbands are alive,  
if there is any member of the family other than those specified in clauses (a), (b), (c) and (d):

Provided also that the widow or widows and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the subscriber and had been exempted the provisions of clause (a) of the proviso.]

<sup>15</sup> Explanation added by Notification No. S.R.O. 719 dated the 23rd March, 1955.

<sup>16</sup> Rule 14 re-numbered as Rule 15 by S.R.O. 1532 dated the 4th May, 1954.

<sup>17</sup> Substituted for "three years", *ibid*.

<sup>18</sup> Rules 15 and 16 omitted and Rules 17 and 18 re-numbered as 16 and 17, *ibid*.

<sup>19</sup> Substituted for the words "less the amount of unrecovered advance and interest thereon, if any", *ibid*.

<sup>20</sup> Substituted, *ibid*.

<sup>21</sup>[FIRST SCHEDULE—[See rule 5(3)].

## FORMS OF NOMINATION

I. When the subscriber has a family and wishes to nominate one member thereof.

I hereby nominate the person mentioned below, who is a member of my family as defined in rule 2 of the Mica Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1950, to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable or having become payable, has not been paid:—

Name and address of the nominee	Relationship with subscriber	Age	Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his pre-deceasing the subscriber

Dated this ..... day of ....., 19  
at .....

Signature of Subscriber .....

Two witnesses to signature.

1.....  
2.....

II. When the subscriber has a family and wishes to nominate more than one member thereof.

I, hereby nominate the persons mentioned below, who are members of my family as defined in rule 2 of the Mica Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1950, to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees	Relationship with subscriber	Age	*Amount or share of accumulations to be paid to each	Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

\*Note.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

Dated this..... day of ..... 19  
at.....

Signature of Subscriber .....

Two witnesses to signature.

1.....  
2.....

<sup>21</sup> Original First Schedule was substituted by the Ministry of Labour Notification No. S.R.O. 1532 dated the 4th May, 1954 as corrected by Corrigendum Notification No. S.R.O. 2086 dated the 21st June, 1954, vide Gazette of India, 1954, Part II—Sec. 3, p. 1667.

III. When the subscriber has no family and wishes to nominate one person.

I, having no family as defined in rule 2 of the Mica Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1950, hereby nominate the person mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before the amount has become payable, or having become payable has not been paid:—

Name and address of the nominees	Relationship with subscriber	Age	*Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person, if any, to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this ..... day of ....., 19  
at .....

Signature of Subscriber.....

Two witnesses to signature.

1.....  
2.....

\*Where a subscriber who has no family makes a nomination, he shall specify in the column that the nomination becomes invalid in the event of his subsequently acquiring a family.

IV. When the subscriber has no family and wishes to nominate more than one person.

I, having no family as defined in rule 2 of the Mica Mines Labour Welfare Office Establishment (Contributory Provident Fund) Rules, 1950, hereby nominate the person mentioned below to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of nominees	Relationship with subscriber	Age	†Amount or share of accumulation to be paid to each	†Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the persons if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber

Dated this ..... day of ....., 19  
at .....

Signature of Subscriber.....

Two witnesses to signature.

1.....  
2.....

†Note.—This column should be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the Fund at any time.

†Note.—Where a subscriber who has no family makes a nomination, he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.]

## 22[SECOND SCHEDULE

## PROVIDENT FUND ACCOUNT AND ABSTRACT BALANCE OF EACH SUBSCRIBER

Name of subscriber.....	Appointment or appointments held under the Welfare Fund.....	Corresponding date(s) of appointment.....	Remarks or special provision, if any.....	Contribution by the Welfare Fund					
Account No.....	Subscription	Refunds of withdrawals	Total	Withdrawals	Subscriber's emoluments drawn on	Monthly balance on which interest is calculated	Interest	Salary, if he elects to subscribe during leave	Remarks.
Date of admission to the Provident Fund.....	Subscription	Refunds of withdrawals	Total	Withdrawals	Subscriber's emoluments drawn on	Monthly balance on which interest is calculated	Interest	Salary, if he elects to subscribe during leave	Remarks.
Rs.....	Rs.....	Rs.....	Rs.....	Rs.....	Rs.....	Rs.....	Rs.....	Rs.....	Rs.....
19-19	19-19	19-19	19-19	19-19	19-19	19-19	19-19	19-19	19-19
April ...	...	...	...	...	...	...	...	...	...
May ...	...	...	...	...	...	...	...	...	...
June ...	...	...	...	...	...	...	...	...	...
July ...	...	...	...	...	...	...	...	...	...
August ...	...	...	...	...	...	...	...	...	...
September ...	...	...	...	...	...	...	...	...	...
October ...	...	...	...	...	...	...	...	...	...
November ...	...	...	...	...	...	...	...	...	...
December ...	...	...	...	...	...	...	...	...	...
January ...	...	...	...	...	...	...	...	...	...
February ...	...	...	...	...	...	...	...	...	...
March ...	...	...	...	...	...	...	...	...	...
March (Final) ...	...	...	...	...	...	...	...	...	...
March (Supplementary) ...	...	...	...	...	...	...	...	...	...
TOTAL	...	...	...	...	...	...	...	...	...
Balance from 19-19	...	...	...	...	...	...	...	...	...
Deposits and Refunds as above.	...	...	...	...	...	...	...	...	...
Interest for 19-19	...	...	...	...	...	...	...	...	...
TOTAL	...	...	...	...	...	...	...	...	...
Deduct—Withdrawals as above.	...	...	...	...	...	...	...	...	...
Balance on 31st March 19	...	...	...	...	...	...	...	...	...
Calculated by	...	...	...	...	...	...	...	...	...
Checked by]	...	...	...	...	...	...	...	...	...

23 Substituted by Ministry of Labour Notification No. S.R.O. 1532 dated the 4th May, 1954. vide Gazette of India, 1954, Part II—Sec. 3, p. 976.



## 23 [THIRD SCHEDULE]

## 24 [MICA MINES LABOUR WELFARE OFFICE ESTABLISHMENT CONTRIBUTORY PROVIDENT FUND]

Office of the Accountant General.....

Year of Account 19.....—.....19.....

Rate of Interest per cent.

Account No.	Name of subscriber	Opening Balance	*Deposits during the year	Interest for the year	Withdrawals during the year	Balance
1	2	3	4	5	6	7
		Rs.	Rs.	Rs.	Rs.	Rs.

\*Includes recoveries made during the month of April to March.

NOTE 1.— The subscriber is requested to state whether he desires to make any alteration in any nomination made under rules of the Fund.

NOTE 2.— In cases where the subscriber has made no nomination in favour of a member of his family owing to his having no family at the time but acquired a family thereafter, the fact should be reported to the Account Officer forthwith.

NOTE 3.— The subscriber is requested to satisfy himself as to the correctness of the statement and to bring errors, if any, to the notice of the Account Officer within month(s) from the date of its receipt.

Signature

Designation: Assistant Accounts Officer,

Date

TO BE RETURNED TO THE ACCOUNTANT GENERAL.....

I hereby acknowledge the receipt of the Annual Statement of my Provident Fund Account for the year 19.....19..... and/but do not accept the balance shown therein as correct for the reasons given overleaf.

Name.....

Designation.....

(with Fund Account No.....)

FOR USE IN THE AUDIT OFFICE

Noted in the Ledger Card.

Auditor.

Superintendent.]

<sup>23</sup> The words "Third Schedule" was inserted by the Ministry of Labour Corrigendum Notification No. S.R.O. 2086 dated the 21st June 1954, vide Gazette of India, 1954, Part II—Sec. 3, p. 1067.

<sup>24</sup> Substituted as part of Second Schedule by the Ministry of Labour Notification No. S.R.O. 1532 dated the 4th May, 1954, vide the Gazette of India, 1954, Part II—Sec. 3, p. 978.

# TRANSPORT LEGISLATION



## **TRANSPORT LEGISLATION**

There is no comprehensive legislation regulating the working conditions of transport workers. The Central legislation regulating the conditions of work in transport system and communications was limited to (1) railways, (2) mercantile marine, (3) docks and ports and (4) road transport only. The principle of statutory regulation of conditions of work has not yet been extended to other classes of transport workers, viz. tramways, motor buses and inland water transport which lie within the jurisdiction of State Governments. The Central Government has recently undertaken legislative measures for air transport workers and regulations regarding their service conditions have been framed in April, 1955. Among the laws already enacted by the Central Government there is no basis of uniformity in the working conditions of different categories of transport workers and therefore there is no set of laws which may properly be called Transport Legislation.

### **(1) Railway Labour**

Until 1930 there was no statutory regulation of the conditions of work of railway servants except those employed in the railway workshops which are covered by the Indian Factories Act. The most important transport legislation was undertaken for the railway workers by the Central Government with a view to give effect to the I.L.O. Conventions of 1921 and 1923 regarding hours of work and weekly rest in industry by introducing a Bill in the Legislative Assembly in 1929 which after some amendments was passed as Indian Railways (Amendment) Act, 1930. The Amending Act of 1930 deals with hours of work and periods of rest of all railway employees except those covered under the Factories Act and Mines Act. Under the Amending Act, the Central Government framed Railway Servants Hours of Employment Rules, 1931 regulating the hours of employment and periods of rest of railway servants. Following the Rajadhyaksha Award of 1947, the Central Government superseded 1931 Rules by Railway Servants (Hours of Employment) Rules, 1951 incorporating the recommendations of the Adjudicator regarding hours of work and periods of rest. A Bill was introduced in the Council of State on the 31st July, 1953 for amendment of the Indian Railways Act, incorporating the changes in respect of hours of work and periods of rest, etc. and was passed on the 1st September, 1954 but the same has not yet been introduced in the Lok Sabha.

### **(2) Maritime Labour**

The regulation of labour conditions of seafarers or all persons employed or engaged in any capacity on board any ship except masters, pilots and apprentices duly indentured and registered is an important branch of transport legislation. The conditions of employment of Indian seamen are regulated by the provisions contained in Part II of the Indian Merchant Shipping Act of 1923. The Act was passed with a view to amend and consolidate the various earliest transport legislations relating to merchant shipping. The Act was amended on several occasions, the important Amending Acts were passed in 1931, 1949 and 1951. The Amending Act of 1931 regulates the employment of young persons and children on board ships. The Amending Act of 1949 regulates the supply of maritime labour by providing for setting up of Seamen's Employment Offices. The Central Government has framed the Seamen's Employment Office Rules for Bombay and Calcutta in 1954 and has set up Seamen's Employment Boards at the ports of Bombay and Calcutta for a period of two years with effect from the 7th June, 1954 and 1st March, 1955 respectively. The Amending Act of 1951 provides for medical examination of seamen and prescribes their qualifications. The Central Government has framed the Indian Merchant Shipping (Medical Examination) Rules, 1951 providing for appointment of medical authorities at ports and prescribing the standard of physical fitness, the nature of medical examination, etc.

### (3) Dock and Port Labour

#### **Indian Dock Labourers Act, 1934**

The Indian Dock Labourers Act, 1934 was undertaken by the Central Government to give effect to the provisions of the Protection against Accidents (Dockers) Convention (Revised), 1932 concerning the protection against accidents of workers employed in loading and unloading ships. The Act came into force on the 10th February, 1948 when the Central Government framed the Indian Dock Labourers Regulations, 1948 providing in details various safety measures to be adopted by (1) the authorities in charge of the management and control of a dock, wharf or quay, (2) the owner, master or agent of a ship, (3) persons engaged in loading and unloading of cargo and (4) the owner of the machinery or plant used in loading or unloading of cargo. The Act and the Regulations apply only to the major ports of Bombay, Calcutta, Madras, Visakhapatnam and Cochin.

#### **Dock Workers (Regulation of Employment) Act and Schemes**

With a view to eliminate the hardship caused to the dock workers on account of casual nature of their employment, the Dock Workers (Regulation of Employment) Act was enacted in March, 1948 following the general principles of U. K. Dock Workers (Regulation of Employment) Act of 1946. The Act authorises the Central Government in case of major ports and State Governments in respect of other ports, to frame schemes for registration of dock workers with a view to secure greater regularity of employment for them and to regulate the employment and conditions of work of all dock workers, registered or non-registered in ports. Under the Act, Dock Workers (Regulation of Employment) Scheme was framed by the Central Government for the ports of Bombay on the 27th January, 1951, Calcutta on the 5th October, 1951 and Madras on the 8th March, 1952. The objects of the Schemes are to ensure greater regularity of employment for dock workers and to regulate their conditions of work. For the purpose of administration of the Schemes, Dock Labour Boards consisting of representatives of Government, workers and employers, were constituted in Bombay in April, 1951, in Calcutta in September, 1952 and in Madras in July, 1953.

#### **Dock Workers (Regulation of Employment) Enquiry Committee, 1955**

After the implementation of the Schemes, complaints were lodged with the Central Government from different quarters regarding their operation in Bombay and Calcutta. On the recommendation of the Dock Workers Advisory Committee, the Central Government appointed the Dock Workers (Regulation of Employment) Enquiry Committee on the 14th January, 1955, under the chairmanship of Sri S. S. Vasist to enquire into the working of the Schemes in the major ports of Bombay, Calcutta and Madras and to suggest necessary modifications.

The Committee submitted its report to the Government on the 7th September, 1955. The Committee observed that the Dock Labour Boards did not function as effectively and efficiently as they should be and the Boards had failed to maintain a judicious balance between supply and demand. The Committee recommended that the wages paid to all workers must be linked with productivity and the existing system of time rate wages should be replaced by a system of "payment by result" with the provision for "incentive bonus." The Committee further recommended payment of minimum guaranteed monthly wages and gratuity and provident fund. The Committee recommended that the Dock Labour Boards should help in promoting settlement of disputes between the employers and employees and should submit reports of its endeavours to the Central Government. The Committee recommended that the Central Government should exercise effective supervision of the working of the Schemes at different ports and co-ordinate all important measures and should depute a high level officer to carry out these functions.

On the basis of the Committee's Recommendations, Drafts of Revised Schemes have been formulated by the Central Government. The most notable feature of the Revised Schemes is the importance attached to the system of payment by results. The Dock Labour Boards at the ports will prescribe forms of productivity in respect of cargoes of different kinds and the worker will be entitled to daily wages proportionate to the standard of output.

#### **Indian Ports Act, 1908**

The Indian Ports Act, 1908 as amended in 1922 and 1931, *inter alia*, prohibits the employment of children under 12 years of age in handling goods in ports to which the Act applies. With regard to the minimum age for admission of employment in transport, the Central Government has enacted the Employment of Children Act in 1938 prohibiting the employment of children below 15 in any occupation connected with the transport of passengers, goods or mails by railway or in any occupation involving the handling of goods within the limits of any port.

#### **Marking of Heavy Packages Act & Rules**

The Central Government enacted the Marking of Heavy Packages Act in 1951 in order to give effect to the International Labour Convention No. 27 concerning the marking of weight of heavy packages transported by vessels. Under the Act, every person consigning a heavy package of certain weight, should mark thereon plainly and durably the gross weight. Under the Rules which came into force on the 1st November, 1951, the gross weight of the heavy packages should be marked in English and also in the regional language with a kind of paint which cannot be easily effaced.

#### **(4) Road Transport Labour**

Motor transport workers form the majority of road transport labour in India. The principle of statutory regulation of conditions of work of motor transport workers came under the consideration of the Royal Commission on Labour in India but the Commission came to the conclusion that the regulation of hours of work of motor bus workers in the cities and in the country would be difficult. After consultation with the Provincial Governments and Transport Advisory Council, the Central Government introduced a Bill to consolidate and amend the law relating to motor vehicles on the 18th March, 1938. The Motor Vehicles Act, 1939 regulates the minimum age of employment, hours of work and rest periods for motor drivers. It limits the hours of work in case of transport vehicles to 9 in a day and 54 in a week and half an hour's rest for 5 hours of continuous work.

There is at present no comprehensive legislation regarding the conditions of motor transport workers. Two non-official Bills to regulate the conditions of motor transport workers were introduced in the Lok Sabha—Sri A. K. Gopalan's Motor Transport Labour Bill No. 41 of 1955 on the 2nd September, 1955 and Sri T. B. Vittal Rao's Motor Vehicles (Amendment) Bill No. 44 of 1955 on the 16th September, 1955, substituting section 65 of the Motor Vehicles Act, 1939. The main provisions of these two Bills relate to the hours of work and limitation of employment, welfare, leave with pay, recreational facilities, provident fund and gratuity. Another non-official Bill called the Motor Vehicles (Amendment) Bill exactly on the above lines was introduced in the Rajya Sabha on the 9th March, 1956.

#### **(5) Air Transport Labour**

Air transport services, both internal and international, were previously being run by private concerns in India. The Government of India introduced the Air Corporations Bill in the House of the People on the 21st March, 1953 with a view to establish two Air Corporations to provide safe, efficient, adequate, economical and properly co-ordinated air transport services by acquiring the undertakings

belonging to existing air companies. The Air Corporations Act (XXVII of 1953) received the assent of the President on 28th May, 1953.

### **Air Corporations Act, 1953 (XXVII of 1953)**

Under the Act every officer and other employees of the existing air companies (excepting director, manager, managing agent or any other persons entitled to manage the whole or a substantial part of the business and affairs of the company) employed prior to 1st July, 1952 should become the employee of the newly formed Corporations without affecting his terms and conditions of service.

The Act provides that each of the Corporations shall constitute a Labour Relations Committee consisting of representatives of the Corporation and its employees and the Labour Relations Committee is to advise the Corporation on matters relating to the welfare of employees and also for promoting and securing amity and good relations between the employees and the Corporation.

The Act authorises the Central Government to make rules regarding terms and conditions of service of the general managers of the two Corporations and such other categories of officers as may be specified from time to time and also for training of the employees of either of the Corporations or other persons on the fees which may be charged from them. The Act authorises the Corporations to make regulations regarding terms and conditions of service of the officers and other employees of the Corporation other than the general manager and officers for whom the Central Government will make necessary rules.

### **Air Corporations Rules, 1954**

The Rules framed by the Central Government on the 26th November, 1954 contain provisions for training of Operational Staff and constitution of the Labour Relations Committee. The duty of the Labour Relations Committee is to advise the Corporation on all matters relating to the welfare of the employees which are likely to promote and secure amity and good relations between the two.

### **Indian Airlines Corporation Services Committee, 1954**

The Indian Airlines Corporation by a Resolution dated the 7th August, 1953 set up a Services Committee with Sri W. R. Puranik, Retired Judge, Nagpur High Court as Chairman, to make recommendations on (i) rationalisation of pay scales for different categories of personnel and formulation of a suitable wage structure; (ii) the procedure to be followed in bringing existing personnel on the approved new pay scales; (iii) the principles to be followed for determining seniority as between personnel of same category belonging to different companies doing more or less similar duties and (iv) formulation of common service conditions in the matter of leave, holidays, travelling allowance rules, insurance facilities, bonus, allowances, provident fund, gratuity, pension schemes, residential accommodation, etc. The Committee submitted the Report to the Chairman of the Corporation on the 16th July, 1954.

### **Indian Airlines Corporation Employees Service Regulations, 1955**

The Indian Airlines Corporation has framed regulations on the 6th April, 1955 regarding conditions of service, recruitment, promotion, discipline, control and appeal, pay and allowances, leave and retirement benefits of (a) Flying Crew, (b) Aircraft Engineering Department and (iii) Employees other than Flying Crew and Aircraft Engineering Department, effective from the 1st January, 1955.

### **Airlines Corporation Employees Conduct & Discipline Regulations, 1955**

The Corporation also by a notification dated the 16th April, 1955 has framed regulations regarding rules of conduct and disciplinary procedure. Under the Regulations, an employee is a wholetime servant of the Corporation and shall not directly or indirectly engage in any business or accept any fees, etc., from

any party nor he can take part in any way in any political or commercial organisations. The term "misconduct" has been clearly defined and different penalties may be imposed on the employees for good and sufficient reasons.

*I will now deal with the above five categories of transport labour more elaborately.*

## RAILWAY LABOUR LEGISLATION

### Railway Labour Legislation

The most important transport legislation in India relates to the railways which come as the third largest group of employers of industrial labour. Until 1930, there was no statutory regulation of the conditions of work of railway servants except those employed in railway workshops covered by the Indian Factories Act. The International Labour Conventions—Hours of Work (Industry) 1919 and Weekly Rest (Industry) 1921 were ratified by the Government of India and given effect to in the Indian Railways (Amendment) Act, 1930 (XIV of 1930), adding a new Chapter (Chapter VI-A) to the Indian Railways Act, 1890, dealing with the hours of work and periods of rest of railway employees except those covered under the Factories Act and the Mines Act and those specifically excluded by the Central Government.

### Main Provisions of the Amending Act of 1930 (XIV of 1930)

The important provisions of the Amending Act are as follows:—(1) Railway workers are classified into two categories—continuous workers and essentially intermittent workers; (2) the hours of work shall not exceed 60 hours a week on the average in any month in respect of all staff coming under the Act except those whose work is essentially intermittent and the hour of work in the latter case is limited to 84 a week; (3) a compulsory weekly holiday is provided for railway employees whose work is not intermittent; (4) temporary exemption may be made in case of accidents, emergency, urgent work and exceptional pressure of work and the hours worked in excess of the statutory maximum are to be paid at the rate of  $1\frac{1}{2}$  times the ordinary rate of pay. The Central Government has been empowered to prescribe the railway servants to whom these provisions apply and the authorities who can declare any employment as essentially intermittent and to grant exemptions and also to appoint persons as Supervisors of Railway Labour.

### Railway Servants (Hours of Employment) Rules, 1951

Rules were framed by the Central Government in 1931 under section 71E of the Act known as Railway Servants (Hours of Employment) Rules. These Rules and the Act are generally referred to as the Hours of Employment Regulations. The Rules provide for limitation of the hours of work and grant of periodical periods of rest to certain classes of railway servants excluding those who are engaged on the running staff or watch and ward duty or in a confidential capacity as supervisor or manager and persons covered under the Factories Act and the Mines Act.

The Rajadhyaksha Award of 1947 recommended the extension of the scope of the Hours of Employment Regulations so as to cover various other categories of workers who were then excluded and made certain recommendations regarding classification of railway servants, hours of work, periods of rest, leave with pay, etc. The Central Government accepted the Recommendations regarding hours of work, period of rest and leave reserves, and by an order dated the 5th June 1948 declared it binding for three years on railways who were parties to the dispute. The Ministry



of Railways (Railway Board) issued necessary instructions to implement the Award by three stages by 31st March, 1951 starting from 1st November, 1948.

In March 1951, the Central Government framed fresh Rules called the Railway Servants (Hours of Employment) Rules, 1951 in supersession of 1931 Rules incorporating the recommendations of the Rajadhyaksha Award regarding hours of work and periods of rest. The Rules apply to all classes of railway servants except those (1) who are subject to the Factories Act, 1948, the Mines Act, 1952 and the Indian Merchant Shipping Act, 1923, (2) supervisory staff, (3) persons employed in a confidential capacity, (4) certain staff belonging to the Medical Department, (5) armed guards and other police personnel, (6) class IV staff whose work is specially light, (7) railway schools staff and (8) casual labour. Under the Rules, railway servants are divided into four categories—(1) intensive, (2) essentially intermittent, (3) excluded and (4) continuous. Weekly hours of work for “intensive,” “continuous” and “essentially intermittent” workers have been fixed at 45, 54 and 75, respectively. “Intensive” and “continuous” workers shall be given a period of rest of 30 consecutive hours a week, “essentially intermittent” workers on weekly rest of 24 consecutive hours including a full night and “excluded” workers a rest period of 48 consecutive hours in a month or one period of 24 consecutive hours in each fortnight. The running staff will be given the periodic rest of four periods of at least 30 consecutive hours each or five periods of not less than 22 consecutive hours each a month.

#### **Adjudication by Justice G. S. Rajadhyaksha**

The All-India Railwaymen's Federation approached the Government of India in 1946 for appointment of an Adjudicator in respect of certain demands of the railway workers. The Government appointed Mr. Justice G. S. Rajadhyaksha in April 1946 to adjudicate on the dispute relating to hours of work, periodic rest, leave reserves, leave rules and holiday concessions for daily rated and inferior staff. The Adjudicator submitted his Award to the Government in May 1947.

The salient features of the Rajadhyaksha Award are the following:—(1) Railway workers shall be re-classified into four categories—“intensive,” “continuous,” “essentially intermittent” and “excluded”; (2) hours of work shall be restricted to 45 a week for “intensive” workers, 54 a week for “continuous” workers and 75 a week for “essentially intermittent” workers; (3) periodic rest of 30 consecutive hours every week shall be given to “intensive” and “continuous” workers, 24 consecutive hours every week to “essentially intermittent” workers, 48 consecutive hours in a month or one period of 24 consecutive hours in each fortnight to “excluded” staff who include certain specified categories of class IV staff whose employment is considered to be of an exceptionally light character, persons employed in a confidential capacity, supervisory staff, and some members of the health and medical staff; (4) running staff are brought within the scope of Hours of Employment Regulations. Their period of duty shall not ordinarily exceed 10 hours at a stretch and their rest periods shall consist of 4 periods of at least 30 consecutive hours each or 5 periods of not less than 22 consecutive hours each in a month, (5) provisions of leave reserves, leave with pay and holidays.

The Government of India accepted the Award in respect of hours of work, periods of rest and leave reserves and by an order dated the 15th June, 1948 declared it binding for a period of three years on the nine Indian Railway Administrations who were parties to the dispute. In July 1948, the Ministry of Railway (Railway Board) issued necessary instructions for the implementation of the Award in three stages by the 31st March, 1951. The recommendations of the Adjudicator was given effect to in the Railway Servants (Hours of Employment) Rules, 1951 by a notification dated the 26th March, 1951 superseding 1931 Rules.

**Indian Railways (Amendment) Bill, 1953 (Bill No. XIX of 1953)<sup>1</sup>**

Although the recommendations of the Adjudicator were implemented by amending the Rules framed under section 71E of the Indian Railways Act, 1890, the Government considered it advisable to amend Chapter VIA of the Indian Railways Act, 1890 with a view to give statutory force to the Adjudicator's Recommendations regarding hours of work, periods of rest, etc. A Bill was introduced in the Council of States by the Railway Minister on the 31st July 1953 and was passed by that House on the 1st September, 1954. The Bill has not yet been introduced in the Lok Sabha.

**Central Pay Commission**

The Central Pay Commission in their report submitted in 1947 recommended improved and uniform basic scales of pay for the various categories of service on the Railways, with the provision that special cases, such as service in the comparatively costlier or unhealthy localities should be met by grant of house rent allowance in cities with a population of over one lakh or compensatory (city) allowance in Bombay and Calcutta. The scales of pay recommended by the Commission and accepted by the Government show considerable improvement for all Class IV and artisan staff as well as for Class III staff except some one on the upper grades of pre-1931 scales. The Commission also recommended basic scales of pay for the running staff and suggested payment of running allowances with a ceiling limit equal to the average running allowance earned by each employee in 1946. The Commission also made recommendations about leave rules involving a radical change in the rules hitherto in force. At the time of implementation of the recommendations regarding scales of pay, all daily-rated staff in the workshops was converted to monthly and brought to the Commission's scales with the result that for the first time, the system of daily rates was abolished.

**Administration**

The administration of the Hours of Employment Regulations is the responsibility of the Industrial Relations Machinery under the charge of the Chief Labour Commissioner (Central). Each of seven railway regions is in charge of a Regional Labour Commissioner (Central), who is responsible for the administration of the Regulations with the assistance of Conciliation Officers (Central) and Labour

<sup>1</sup>**Statement of Objects and Reasons**—In 1946, an industrial dispute arose between the nine former Government Railway Administrations and their respective employees about the hours of work, periods of rest, etc. laid down in Chapter VIA of the Indian Railways Act, 1890. The matter was, by consent, made the subject of adjudication. The Adjudicator gave his award in 1947. The Government have accepted the award in respect of hours of work, periods of rest and leave reserves. The chief changes accepted in consequence of the Adjudicator's Award in respect of hours of work and periods of rest are—

- (a) an all round curtailment of hours of work;
- (b) the introduction of a new category of workers, namely, intensive workers;
- (c) a radical change in the definition of intermittent workers;
- (d) a general liberalisation of periodical rest and bringing more categories of workers within its purview;
- (e) the inclusion of running staff within the scope of the provisions.

2. Although the implementation of these changes could be, and is being, achieved by amending the rules framed under section 71E of the Indian Railways Act, 1890, it is considered advisable to incorporate the changes in respect of hours of work and periods of rest, etc. by an amendment of the Indian Railways Act itself. Such radical changes should be effected by an amendment of the Act. Moreover, it will be in line with international practice. The International Labour Organisation to which our country belongs attaches considerable importance to statutory protection to the workmen in respect of such matters. Legally, the Award applied only to the railways which were parties to the industrial dispute. It is, however, necessary to apply it to the staff of the other railways also and it is advisable to place them on the same footing by extending to them the protection which the legislation confers. (Gazette of India Extraordinary, 1953, Part II—Section 2, page 471.)

Inspectors (Central). The Conciliation Officers have been declared by the Government as Supervisors of Railway Labour.

The Report of the Chief Labour Commissioner (Central) on the working of the Hours of Employment Regulations in Railways for the year 1952-53, shows that the total number of workers covered by the Regulations was 6,86,056 as compared to 6,88,289 in 1951-52. The distribution of the workers in 1952-53 in the seven regions classified according to the nature of work were as follows—Intensive 1,627 (0·2%), Continuous, 5,58,224 (81·4%), Intermittent 88,286 (12·9%) and Excluded 37,919 (6·5%), totally 6,86,056 (100%). The officers of the Industrial Relations Machinery inspected 5,771 establishments during the year and detected 11,610 irregularities as compared to 4,756 inspections and 7,013 irregularities in 1951-52. Of 11,610 irregularities detected during the year, 3,455 related to non-display of rosters or display of defective rosters, 1,030 to non-display of Regulations, 958 to work beyond rostered hours, 1,522 to working on rest days, 208 to continuous employment on night duty and 434 to non-payment of overtime wages. Irregularities numbering 9,091 were rectified, 202 were objected to by the Railway Administrations and 2,317 were under their consideration. Of the total number of irregularities rectified 27 per cent were rectified within 3 months and 61 per cent within six months. In most of the cases the Railway Administrations offered their full co-operation in the quick disposal of the irregularities brought to their notice. The Inspectors helped to ensure satisfactory compliance with the Regulations.

## INDIAN RAILWAYS ACT, 1890 (IX OF 1890) (EXTRACTS)

### Arrangement of Sections

#### CHAPTER I—PRELIMINARY

1. Title, extent and commencement.
2. Definitions.

#### CHAPTER VIA—LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS

- 71A. Definitions.
- 71B. Application of Chapter VIA.
- 71C. Limitation of hours of work.
- 71D. Grant of periodical rest.
- 71E. Power to make rules.
- 71F. Railway servants to remain on duty.
- 71G. Supervisors of Railway Labour.
- 71H. Penalty.

## INDIAN RAILWAYS ACT, 1890 (IX OF 1890) (EXTRACTS)

[21st March, 1890.]

*An Act to consolidate, amend and add to the law relating to Railways in India.*

Whereas it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

#### CHAPTER I—PRELIMINARY.

1. **Title, extent and commencement.**—(1) This Act may be called the Indian Railways Act, 1890.

(2) It extends to the whole of India.

3. **Definitions.**—In this Act, unless there is something repugnant in the subject or context,—

\* \* \* \* \*

(5) “railway company” includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;

(6) "railway administration" or "administration", in the case of a railway administered by the Government <sup>1</sup> \* \* \*, means the manager of the railway and includes the Government <sup>2</sup> \* \* \*, and in the case of a railway administered by a railway company means the railway company;

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway;

(8) "Inspector" means an Inspector of Railways appointed under this Act;

<sup>3</sup>[CHAPTER VIA<sup>4</sup>—LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS

**71A. Definitions.**—In this Chapter, unless there is anything repugnant in the subject or context,—

(a) the employment of a railway servant is said to be 'essentially intermittent' when it has been declared to be so by the authority empowered in this behalf, on the ground that it involves long periods of inaction; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention; and

(b) except in section 71B, a "railway servant" means a railway servant to whom this Chapter applies.

<sup>1</sup> The words "or a State" rep. by the A.O. 1950.

<sup>2</sup> The words "or the State" rep., *ibid.*

<sup>3</sup> Chapter VIA was inserted by the Indian Railways (Amendment) Act, 1930 (XIV of 1930). The Indian Railways (Amendment) Bill No. XIX of 1953 substitutes Chapter VIA with sections 71A to 71H. For a comparative study, the provisions of the Amending Bill are reproduced under each section.

<sup>4</sup> For power given to Central Govt. to suspend operation of Chapter VIA in certain cases, see the Railways (Hours of Employment) Ordinance, 1942 (45 of 1942).

**71A. Definitions.**—In this Chapter, unless the context otherwise requires,—

(a) the employment of a railway servant is said to be "continuous" except when it is excluded or has been declared to be essentially intermittent or intensive;

(b) the employment of a railway servant is said to be "essentially intermittent" when it has been declared to be so by the prescribed authority on the ground that the daily hours of duty of the railway servant normally include periods of inaction aggregating six hours or more (including at least one such period of not less than one hour or two such periods of not less than half an hour each) during which the railway servant may be on duty, but is not called upon to display either physical activity or sustained attention;

(c) the employment of a railway servant is said to be "excluded", if he belongs to any one of the following categories, namely:—

(i) railway servants employed in a confidential capacity;

(ii) armed guards, or other personnel subject to discipline similar to that of the armed police forces;

(iii) staff of the railway schools imparting technical training or academic education;

(iv) such categories of class IV staff as may be specified by the Central Government by rules made under section 71E;

(v) such staff as may be specified as supervisory staff by the Central Government by rules made under section 71E;

(vi) such categories of staff of the Health and Medical department as may be specified by the Central Government by rules made under section 71E;

(d) the employment of a railway servant is said to be "intensive" when it has been declared to be so by the prescribed authority on the ground that it is of a strenuous nature involving continued concentration or hard manual labour with little or no period of relaxation.

**\*71B. Application of Chapter VIA.**—This Chapter applies only to such railway servants or classes of railway servants as the '[Central Government]' may by rules made under section 71E, prescribe.

**\*71C. Limitation of hours of work.**—(1) A railway servant, other than a railway servant whose employment is essentially intermittent, shall not be employed for more than sixty hours a week on the average in any month.

(2) A railway servant whose employment is essentially intermittent shall not be employed for more than eighty-four hours in any week.

(3) Subject to rules made under section 71E, temporary exemptions of railway servants from the provisions of sub-section (1) and sub-section (2) may be made—

(a) when such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway, in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling-stock, or in any emergency which could not have been foreseen or prevented; and

(b) in cases of exceptional pressure of work not falling within the scope of clause (a):

Provided that a railway servant exempted under clause (b) shall be paid for overtime at not less than one and a quarter times his ordinary rate of pay.

**\*71D. Grant of periodical rest.**—(1) A railway servant shall be granted each week commencing on Sunday, a rest of not less than twenty-four consecutive hours:

Provided that this sub-section shall not apply to a railway servant whose employment is essentially intermittent, or to a railway servant to whom sub-section (2) applies.

**\*71B. Chapter VIA not to apply to certain railway servants.**—This Chapter shall not apply to any railway servant to whom the Indian Merchant Shipping Act, 1923 (XXI of 1923) or the Factories Act, 1948 (LXIII of 1948) or the Mines Act, 1952 (XXXV of 1952), applies.

<sup>7</sup> Substituted for the words "Governor General in Council" by the A. O. 1950.

**\*71C. Limitation of hours of work.**—(1) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy-five hours in any week.

(2) A railway servant whose employment is continuous shall not be employed for more than fifty-four hours a week on the average in any month;

(3) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on the average in any month;

(4) Subject to any rules that may be made under section 71E, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) or sub-section (3) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in case of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling stock, or in any emergency which could not have been foreseen or prevented, or in other cases of exceptional pressure of work:

Provided that a railway servant so exempted shall be paid for over-time at not less than one and one-half times his ordinary rate of pay.

**\*71D. Grant of periodical rest.**—(1) Subject to the provisions of this section, a railway servant—

(a) whose employment is intensive or continuous shall be granted, each week commencing on Sunday, a rest of not less than thirty consecutive hours;

(b) whose employment is essentially intermittent shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours including a full night;

(c) whose employment is excluded under sub-clause (iv) of clause (c) of section 71A shall be granted a rest of not less than forty-eight consecutive hours each month, or a rest of not less than twenty-four consecutive hours each fortnight.

(2) The <sup>10</sup>[Central Government] may, by rules made under section 71E, specify the railway servants or classes of railway servants to whom periods of rest may be granted on a scale less than that laid down in sub-section (1), and may prescribe the periods of rest to be granted to such railway servants.

(3) Subject to rules made under section 71E, temporary exemptions from the grant of periods of rest may be made in the cases or circumstances specified in sub-section (3) of section 71C:

Provided that a railway servant shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

**71E. Power to make rules.**—(1) The <sup>10</sup>[Central Government] may make rules—

- (a) prescribing the railway servants or classes of railway servants to whom this Chapter shall apply;
- (b) prescribing the authorities who may declare that the employment of any railway servant or class of railway servants is essentially intermittent;
- (c) specifying the railway servants or classes of railway servants to whom sub-section (2) of section 71D shall apply;
- (d) prescribing the authorities by whom exemptions under sub-section (3) of section 71C or sub-section (3) of section 71D may be made;
- (e) providing for the delegation of their powers by the authorities prescribed under clause (d); and
- (f) providing for any other matter which is to be provided for by rules or which the <sup>10</sup>[Central Government] may deem to be requisite for carrying out the purposes of this Chapter.

(2) Such rules shall be subject to the provisions of section 143<sup>11</sup>.

**71F. Railway servant to remain on duty.**—Nothing in this Chapter or the rules made thereunder shall authorise a railway servant to leave his duty where due provision has been made for his relief, until he has been relieved.

**71G. Supervisors of Railway Labour.**—(1) The <sup>10</sup>[Central Government] may appoint persons to be Supervisors of Railway Labour.

(2) The duties of Supervisors of Railway Labour shall be—

- (a) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed, and
- (b) such other duties as the <sup>10</sup>[Central Government] may prescribe.

(2) Notwithstanding anything contained in sub-section (1), locomotive or traffic running staff shall be granted, each month, a rest of at least four periods of not less than thirty consecutive hours each, or at least five periods of not less than twenty-two consecutive hours each including a full night,

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, by rules made under section 71E, specify the railway servants to whom periods of rest may be granted on a scale less than that laid down under sub-section (1) and may prescribe the periods of rest to be granted to such railway servants.

(4) Subject to any rules that may be made under section 71E, temporary exemptions of railway servant from the provisions of sub-section (1) or sub-section (2) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary in the cases or circumstances specified under sub-section (4) of section 71C:

Provided that a railway servant so exempted shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

<sup>10</sup> Subs. by A. O. 1950 for "Governor-General in Council."

<sup>11</sup> Section 143 relates to the manner of publication of Rules made under Sections 34, 47 and 84 in the official Gazette.

(3) A Supervisor of Railway Labour shall be deemed to be an Inspector for the purposes of sections 5 and 6<sup>12</sup>.

**71H. Penalty.**—Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.

## RAILWAY SERVANTS (HOURS OF EMPLOYMENT) RULES, 1951

### Arrangement of Paragraphs

1. Short title and commencement.
2. Definitions.
3. Application of Chapter VIA of the Act.
4. Classification of employment of railway servants.
5. Limitation of hours of work.
6. Periodic rest.
7. Periodic rest on less than normal scale.
8. Compensatory periods of rest.
9. Power to grant temporary exemptions.
10. Notice of hours of employment.
11. Publication of rules.

## RAILWAY SERVANTS (HOURS OF EMPLOYMENT) RULES, 1951<sup>1</sup>

In exercise of the powers conferred by sub-section (1) of section 71E of the Indian Railways Act, 1890 (IX of 1890), and in supersession of the Railway Servants (Hours of Employment) Rules, 1931, the Central Government hereby makes the following rules for the regulation of hours of employment and periods of rest of railway servants, namely:—

**1. Short title and commencement.**—(1) These rules may be called the Railway Servants (Hours of Employment) Rules, 1951.

(2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In the Rules, unless the context otherwise requires:—

- (a) "Act" means the Indian Railways Act, 1890 (IX of 1890);
- (b) "Chapter" means a Chapter of the Act;
- (c) "excluded staff" means the staff described in sub-rule (2) of rule 3;
- (d) "intensive worker" means the staff described in sub-rule (2) of rule 5;
- (e) "section" or "sub-section" means a section or sub-section of the Act.

**3. Application of Chapter VIA of the Act.**—(1) The provisions of Chapter VIA (Sections 71A to 71II) of the Act shall apply to all classes of railway servants except:—

- (a) Railway servants who are subject to the Factories Act, 1948, the Indian Mines Act, 1923<sup>2</sup>, or the Indian Merchant Shipping Act, 1923;
- (b) excluded staff.

(2) The excluded staff referred to in clause (b) of sub-rule (1) shall consist of railway servants who fall under any of the following classes, namely:—

- (i) supervisory staff;
- (ii) certain sections of the staff of the Health and Medical Departments such as Assistant Surgeons, Sub-Assistant Surgeons, Matrons and Sisters-in-charge;
- (iii) persons employed in a confidential capacity;
- (iv) saloon attendants;
- (v) care-takers of rest-houses, reservoirs and other railway property, whose employment is declared by the Head of the Railway to be exceptionally light on the ground that the total effective work in 24 hours amounts to less than 6 hours;

<sup>12</sup> Sections 5 and 6 deal respectively with the powers of the Inspectors and facilities to be afforded to the Inspectors.

<sup>1</sup> These Rules were published under the Ministry of Railways (Railway Board) Notification No. S.R.O. 450 dated the 26th March, 1951 in the Gazette of India, 1951, Part II—Section 3, pages 519-520.

<sup>2</sup> See now the Mine Act, 1952 (XXXV of 1952).

(vi) gate-keepers of C class level crossings where the gates are normally closed against road traffic, whose employment is declared by the Head of the Railway to be exceptionally light on the ground that the total effective work in 24 hours amounts to less than 6 hours;

(vii) armed guards or other police personnel subject to military or police discipline, as the case may be;

(viii) staff of the railway schools imparting technical training or academic education.

(3) If any question arises in respect of a declaration made by the Head of the Railway under clauses (v) and (vi) of sub-rule (2) or as to whether a person holds a position of supervision or management or are employed in a confidential capacity, the matter shall be referred:—

(a) in a case falling under clause (i) of sub-rule (2), to the Central Government, whose decision shall be final;

(b) in a case falling under clauses (v) and (vi) of sub-rule (2), to the Regional Labour Commissioner, whose decision subject to an appeal to the Central Government, shall be final.

**4. Classification of employment of railway servants.**—(1) The employment of all railway servants shall be declared by the General Manager of a railway administration into the following categories, namely:—

(i) intensive;

(ii) essentially intermittent;

(iii) excluded staff;

(iv) continuous, that is to say, employment which does not fall under any of the aforesaid three categories.

(2) The employment of a railway servant shall be held to be 'intensive' when it has been declared to be so by the authority empowered in this behalf on the ground that it is of a strenuous nature involving continuous concentration or hard manual labour with little or no periods of relaxation.

**5. Limitation of hours of work.**—(1) A railway servant whose employment is classified as intensive shall not be employed for more than 45 hours a week on the average in any month.

(2) A railway servant whose employment is continuous shall not be employed for more than 54 hours a week on the average in any month.

(3) A railway servant whose employment is essentially intermittent shall not be employed for more than 75 hours a week.

**6. Periodic rest.**—(1) Subject to the provisions hereinafter contained, the following classes of railway servants shall be granted rest, each week, commencing on Sunday, on the following scale, namely:—

(i) intensive and continuous workers—a minimum of 30 consecutive hours;

(ii) essentially intermittent workers—a minimum of 24 consecutive hours including a full night.

(2) "Excluded Staff" shall be given at least one period of rest of 48 consecutive hours in a month or one period of 24 consecutive hours in each fortnight.

**7. Periodic rest on less than the normal scale.**—(1) Loco and Traffic Running Staff may be granted periods of rest on a scale different from that laid down in rule 6. They shall enjoy four periods of rest of not less than 30 consecutive hours or five periods of rest of not less than 22 consecutive hours in a month.

(2) Mates, Keymen and Gangmen, whether employed on lines under construction or for the maintenance of permanent way, and artisans and unskilled labour employed for temporary purposes shall enjoy in each week commencing on Sunday a calendar day's rest or, at the discretion of the railway administration, an equivalent number of consecutive days up to a limit of three.

(3) Other staff on duty in running trains may be given periodic rest as indicated in sub-rule (1).

**8. Compensatory periods of rest.**—(1) A railway servant exempted under the provisions of sub-section (3) of section 71D from the grant of periods of rest shall not be required to work for more than 14 days without a rest of at least 30 consecutive hours.

(2) Exemption under the provisions of sub-section (3) of section 71D of the Act shall not be granted except by an order in writing made by the General Manager of a railway administration or an officer authorised by him in this behalf.



**9. Power to grant temporary exemptions.**—Subject to the provisions of sub-section (3) of section 71C and sub-section (3) of section 71D of the Act, the General Manager of a railway administration or an officer authorised by him in this behalf may grant temporary exemptions in respect of any railway servant or class of railway servants from the provisions of rules 5, 6 and 7.

**10. Notice of hours of employment.**—A railway administration shall make known to railway servants the duration of hours of employment and the incidence of periods of rest by displaying in a conspicuous place where such servants work, duty lists, rosters or other similar documents.

**11. Publication of rules.**—Every railway administration shall display in a conspicuous place at each station of its railway a copy of Chapter VIA of the Act and of these rules.

## **RAILWAY SERVICES (SAFEGUARDING OF NATIONAL SECURITY) RULES, 1954<sup>1</sup>**

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the President hereby makes the following rules, namely:—

1. (1) These rules may be called the Railway Services (Safeguarding of National Security) Rules, 1954.

(2) The Railway Services (Safeguarding of National Security) Rules, 1949, are hereby cancelled.

(3) These rules apply to:—

- (i) railway servants as defined in section 3 of the Indian Railways Act, 1890;
- (ii) persons holding posts in the Railway Board who are subject to the Railway Services (Classification, Control and Appeal) Rules; and
- (iii) other persons holding posts under the administrative control of the Railway Board or of the Financial Commissioner of Railways.

2. In these rules,—

- (a) "Member of the Railway Service" means any person to whom these rules apply;
- (b) "Head of a Department" means any authority who is the Head of a Department for the purposes of the Railway Supplementary Rules; and
- (c) "the competent authority" means—

(i) in relation to a member of the Railway Service appointed by the Head of a Department or by an authority subordinate to the Head of a Department, the Head of the Department; and

(ii) in relation to any other member of the Railway Service, the President.

3. Where the President is of opinion that a member of the Railway Service is engaged in or is reasonably suspected to be engaged in subversive activities or is associated with others in subversive activities and that his retention in the public service is on that account prejudicial to national security, the President may make an order compulsorily retiring such a person from service or terminating his services after he has been given due notice or pay in lieu of such notice in accordance with the terms of agreement of his service or under Rule 148<sup>2</sup> of the Indian Railway Establishment Code, Volume I.

4. Before an order under rule 3 is made—

- (a) the competent authority shall, by notice in writing, inform the member of the Railway Service of the action proposed to be taken in regard to him and give him an opportunity to make to the President, within such period as may be specified in the notice, representation in writing against that action; and
- (b) the President shall take into consideration the representation, if any, so made by him.

5. Where action under these Rules is proposed to be taken in regard to a member of the Railway Service, the competent authority shall place him under suspension;

Provided that if the member of the Railway Service so wishes, the competent authority shall, before placing him under suspension, permit him to proceed on such leave as may then be admissible to him.

<sup>1</sup> These Rules were published under the Ministry of Railways (Railway Board) Notification No. S.R.O. 1294 dated the 19th April, 1954 in the Gazette of India, 1954, Part II—Section 3, pages 863-864.

<sup>2</sup> Rule 148 relates to termination of service and period of notice.

6. Nothing contained in the Rules in Chapter XVII<sup>a</sup> of the Indian Railway Establishment Code, Volume I, shall apply to, or in respect of, any action taken or proposed to be taken under these rules.

7. It shall not be necessary for the President to consult the Union Public Service Commission in respect of any order passed under these rules.

8. Any person compulsorily retired from service or whose service is terminated under rule 3 shall be entitled to such compensation, pension, gratuity and/or provident fund benefits as would have been admissible to him under the rules applicable to his service or post on the date of such retirement or termination of service if he had been discharged from service due to the abolition of his post without any alternative suitable employment being provided.

#### SUPERVISORS OF RAILWAY LABOUR

**S.R.O. 772**, dated the 9th October, 1950.—In exercise of the powers conferred by sub-section (1) of section 71G of the Indian Railways Act, 1890 (IX of 1890), and in supersession of the notification of the Government of India in the late Department of Labour No. L.R. 12(3), dated the 29th August, 1945, the Central Government is pleased to appoint the undermentioned persons to be Supervisors of Railway Labour, namely:—

1. Chief Labour Commissioner (Central).
2. Regional Labour Commissioner (Central), Bombay.
3. Regional Labour Commissioner (Central), Calcutta.
4. Regional Labour Commissioner (Central), Kanpur.
5. Regional Labour Commissioner (Central), Madras.

#### MARITIME LABOUR LEGISLATION

##### Early Transport Legislation for Mercantile Marine

The earliest transport legislation was undertaken for mercantile marine and was continued in a series of Acts since the middle of the nineteenth century, many of them overlapping and interlocking in a complicated and confused way. The Indian Merchant Shipping Act was passed in 1923 (XXI of 1923) with a view to consolidate the earlier enactments and to regulate various matters connected with merchant shipping. The Act is an important legislative measure which for the first time regulates the working conditions of the Indian seamen. The Act is not strictly a piece of labour legislation but an enactment consolidating all earlier laws regarding mercantile marine with certain improvements. Though a good deal of the Act relates to passenger ships, pilgrims ships, safety of the ship and such other matters, Part II of the Act relates solely to the seamen and the conditions of their employment and work. Since its enactment, the Act was amended on several occasions.

##### Several Amendments to the Indian Merchant Shipping Act, 1923.

Among the important Amending Acts are the Acts passed in 1931, 1949 and 1951. The Government of India ratified I.L.O. Conventions No. 15 (Minimum Age Trimmers and Stokers Convention, 1921), 16 (Medical Examination of Young Persons Sea Convention, 1921) and 22 (Seamen's Articles of Agreement Convention, 1926) and amended the Merchant Shipping Act, 1923 by an Amending Act of 1931 (XI of 1931) to give effect to the principles of the above Conventions by making provisions regarding the employment of children and young persons on board ships and engagement as trimmers and stockers and for medical examination of young persons. The Amending Act of 1949 (LIII of 1949) regulates the supply

<sup>a</sup> Chapter XVII contains Rules 1701 to 1743 dealing with conduct and discipline of railway staff in 3 Sections—Railway Servants' Conduct Rules under Rule 1701, Discipline and Appeal Rules for Non-gazetted Staff under Rules 1702 to 1727 and Discipline and Appeal Rules for Gazetted Officers under Rules 1728 to 1743.

of maritime labour and provides for the setting up of Seamen's Employment Offices at ports for the purpose of engaging or supplying seamen for merchant ships. The Amending Act of 1951 (XLII of 1951) provides for the medical examination of seamen and for prescribing their qualifications.

### **Main Provisions of Indian Merchant Shipping Act, 1923**

Part II of the Act deals with Masters and Seamen and regulates the conditions of employment of Seamen and consists of 135 sections containing provisions for (1) Shipping Offices; (2) Certificates of competency; (3) Apprenticeship to sea services; (4) Supply of seamen; (5) Engagement of seamen; (6) Employment of young persons; (7) Engagement of lascars by masters of foreign ships; (8) Discharge of seamen; (9) Payment of wages; (10) Advance and allotment of wages; (11) Rights of seamen in respect of wages; (12) Mode of recovering wages; (13) Property of deceased seamen; (14) Distressed seamen; (15) relief of distressed seamen to whom the Merchant Shipping Acts do not apply; (16) Provisions, health and accommodation; (17) Facilities for making complaints; (18) Protection of seamen from imposition; (19) Provision as to discipline; (20) Leaving seamen or apprentices in India and (21) Official logs.

### **Recruitment and Employment Offices**

The master of an Indian, British or foreign ship can engage a seaman in presence of a Shipping Master in the prescribed manner. The Amending Act of 1949 empowers the Central Government to establish Seamen's Employment Offices at such posts as they think fit, for the purpose of engaging or supplying seamen for merchant ships and generally for regulating the supply of maritime labour and to make Rules<sup>1</sup> for the purpose of enabling the Seamen's Employment Offices to exercise their powers effectively. The Amending Act lays down that in any port where such an office has been established no person shall receive or accept to be entered on board any ship any seaman unless such a seaman is engaged through or supplied by such office. For the purposes of the Act "seaman" includes every person employed or engaged in any capacity on board any ship but does not include ship's officer's, masters, pilots or apprentices duly indentured or registered, unless so declared by the Central Government. All recruitment must be made through the Employment Offices. Contravention of this provision will be deemed to be an offence punishable with a fine which may extend upto Rs. 100/-. The Rules authorise the Central Government to set up Seamen's Employment Board with equal number of members representing the Government, shipowners and seamen after consulting the interests concerned to advise the Government on the working of the Employment Offices. The Central Government has established Seamen's Employment Boards at the ports of Bombay and Calcutta. The Seamen's Employment Boards with members representing the Government, shipowners and seamen were established at the port of Bombay for two years with effect from the 7th June, 1954 and at the port of Calcutta for a period of two years from the 1st of March 1955, with the Director-General of Shipping as Chairman.

### **Medical Examination of Young Persons as well as Seamen**

The Amending Act of 1931 provides for medical examination only of young persons under 18 years before they are engaged or carried to sea to work in any capacity. The Government formulated a scheme for medical examination of seamen every two years by Government doctors generally based on the scheme of I.L.O. Convention No. 73 (Medical Examination Seafarers Convention, 1946) and

<sup>1</sup> The Central Government has framed Seamen's Employment Office Rules in 1954 for Bombay and Calcutta and established Seamen's Employment Offices at these two ports.

introduced the same in Bombay and Calcutta in early 1950. In order to ensure the recruitment of proper persons who are both physically and otherwise fit to perform their duties and to provide for their medical examination and also to prescribe their qualifications, the Act was amended in 1951 (XLII of 1951). The Amending Act of 1951 prohibits the employment of seaman to work in any capacity in any ship unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity. Contravention of this provision is an offence punishable with a fine which may extend to Rs. 100/-. The Rules<sup>2</sup> were framed by the Central Government on 16th July, 1951, providing for appointment of medical officers at each of the ports of Calcutta, Bombay or any other port for the medical examination of seamen and prescribing the standards of physical fitness, the nature of medical examination, the form of certificate of fitness etc.

### **Employment of Young Persons**

The Amending Act of 1931 prohibits the employment of young persons below 14 years in any capacity in any ship registered in India and in any foreign going ship except under certain conditions e.g., when they are employed under nominal wages and under the charge of their father or other near relatives, and the employment of young persons below 18 years as trimmers or stockers except under certain specified conditions. It also prohibits the employment of young persons under 18 years in any capacity in any ship without a medical certificate of physical fitness.

### **Agreement**

Under the Act the master of every Indian or British ship, except home-trade ships of a burden not exceeding 300 tons, is required to enter into an agreement with every seaman at the time of engagement, in the prescribed form giving details regarding the voyage, the conditions of work, and wages and also a stipulation, in case of termination of service at any foreign port, for providing him either suitable employment on board a ship bound for the port where he was recruited or free passage to some other port in India as may be agreed upon. The Act lays down special provisions with regard to the agreements with seamen of foreign-going ships and these agreements should be signed by the seamen in presence of the Shipping Masters. The Act provides that every seaman engaged by an Indian or British foreign-going ship must be discharged in presence of a Shipping Master and must obtain from the master, a certificate of his discharge in the form prescribed by the Central Government specifying the period of his service and the time and place of his discharge. By virtue of the Amending Act of 1931, a seaman is also entitled to receive from the master of every ship, except a home-trade ship of less than 300 tons, a certificate stating the quality of his work and whether he has fulfilled his obligations under the Agreement. Contravention of any of the above provisions is an offence punishable with a fine which may extend to Rs. 100/-.

### **Payment of Wages**

A seaman's right to wages begins either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever happens first. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within three days after the seaman's discharge whichever happens first and the seaman shall at the time of his discharge, be entitled to be

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<sup>2</sup> See the Indian Merchant Shipping (Medical Examination) Rules, 1951.

paid on account a sum equal to one-fourth part of the balance due to him. If the master or owner fails to make payment at that time, the seaman is entitled to a compensation not exceeding the amount of two days' pay for every day of delay but the total amount shall not exceed 10 days double pay. When a seaman is discharged before a Shipping Master in India, he shall receive his wages through him or in his presence. The master of every Indian or British ship before paying off or discharging a seaman, shall deliver to the seaman or to the Shipping Master, an account of his wages and deduction in a prescribed form. Deductions from seaman's wages are not permitted unless it is included in the above account. The seaman after his discharge and settlement of wages, shall sign in presence of the Shipping Master, a release in respect of the past voyage or engagement which should also be signed by the master or owner of the ship and attested by the Shipping Master. The Act regulates the system of making advance to a seaman, of a sum not exceeding one month's wage payable to him and of allotment of any part of his wages during his absence in favour either of a relative or some member of his family to be named in the allotment note. The Act also provides for payment of compensation not exceeding one month's wages in addition to any wages earned if the seaman is discharged otherwise than in accordance with the terms of his Agreement, before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent. The Act places restriction on sale of and charge upon wages due or accruing to a seaman or apprentice and seamen are thus protected against attachment or assignment or sale of their wages made prior to their accrual.

### **Health and Welfare**

The provisions of the Act relating to the health and welfare of the seamen cover accommodation, food, medical attendance in case of illness and grant of relief to distressed seamen. Every seaman aboard a ship must be allotted an accommodation of not less than 12 superficial feet and 72 cubic feet. Provision is made that on every ship there must be sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew. The Act provides that every foreign-going Indian and British ship and every home-trade ship of more than 300 tons burden shall always keep on board a sufficient supply of medicines and appliances for dealing with sickness and accidents on sea voyage according to the scale prescribed by the Central Government. The owner of the ship has to provide free medical attendance for the master, seaman or apprentice in case of illness. The Act provides for relief to distressed seamen and their maintenance until such time as the local authority is able to provide them with a passage.

### **Desertion, Absence and Offences against Discipline**

A seamen who has been lawfully engaged can leave the ship only after termination of his Agreement and not before. If he deserts from the ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has thus earned. If the desertion takes place outside India, he shall also be liable to imprisonment for a term which may extend to 12 weeks.

If the seaman neglects or refuses without reasonable cause to join his ship or is absent without leave at any time within 24 hours of the ship's sailing from a port or is absent at any time without leave and without sufficient reason, from his ship or from his duty, he shall be guilty of an offence of absence without leave and be liable to forfeit a portion of wages and also imprisonment for a term which may extend to 10 weeks.

If a seaman commits any of the following offences against discipline e.g. wilful disobedience to any lawful command, continued wilful neglect of duty, assaulting master, mate or certified engineer, combination to disobey lawful commands or to neglect duty or to impede the progress of the voyage, wilful damage to ship and criminal misappropriation or breach of trust in respect thereof, he shall be liable to imprisonment for a term varying from 4 weeks to 12 weeks and also forfeiture of his wages for specified days.

### Administration

The Act relating to the employment of seamen is administered by Shipping Masters who are assisted by the Deputy Shipping Masters. It is the duty of the Shipping Master to superintend and facilitate the engagement and discharge of seamen in a manner prescribed by the Act and to provide means for securing their presence on board at the proper time and to perform such other duties relating to seamen as may be specified.

### Social Security for Indian Seamen

The provisions of the Workmen's Compensation Act, 1923 apply to persons employed as masters or as seamen on any power-driven ship or on any ship of 50 or more tons, subject to certain modifications.

At present the Indian seamen do not enjoy any Social Insurance Benefits though by virtue of the terms of Agreement they are entitled to medical care, maintenance and repatriation at the cost of the shipowners. The Government of India was considering the introduction of a Scheme of Social Insurance for Indian Seamen and at the instance of the Government, a Social Insurance Scheme for Indian Seamen was prepared by Prof. B. P. Adarkar. Prof. Adarkar's Scheme covers (1) all seamen employed on board ship registered in India, (2) all seamen recruited at a port in British India and (3) all seamen recruited abroad. The following risks will be covered—(1) sickness, (2) employment injury, (3) old age and death of the breadwinner and (4) unemployment. The Scheme will be financed by contributions by insured seamen and their employers and the State may be asked for administration only. The Seamen's Insurance Scheme shall be linked to the general insurance scheme for the industrial workers.

The International Labour Office was requested by the Government of India to send an official acquainted with the subject of Seamen's Insurance to visit India in order to assist in the elaboration of the Scheme of Social Insurance for Indian Seamen. In response to this request, Dr. (Miss) Laura Bodmer was deputed for the purpose in September, 1945. A Joint Report on the Scheme<sup>3</sup> was submitted by Dr. Bodmer and Prof Adarkar on the 5th December, 1945. The Adarkar-Bodmer Report emphasizes that the success of an insurance scheme for seamen will largely depend on simultaneous organisation of recruitment<sup>4</sup> involving a reduction in the number of those admitted to sea service and a system of rotation for seamen who are not in continuous employment.

The Main Features of the Joint Scheme are as follows:—

(1) Unified sickness, employment injury and old age and survivors' insurance for seamen plus insurance for "waiting pay" on condition that measures are taken to organize recruitment and employment in sea service.

<sup>3</sup> Social Insurance Scheme for Indian Seamen—A Scheme by Prof. B. P. Adarkar and Joint Report on the Scheme Dr. Laura Bodmer and Prof. B. P. Adarkar, 1946.

<sup>4</sup> The Seamen's Employment Schemes have already been introduced in Bombay and Calcutta and the successful implementation of this Scheme will be the first step in achieving the ultimate object of introducing a health insurance plan for seafarers. Though the Scheme was under the consideration of the Government for more than ten years, it was thought impossible to give effect to it owing to the uncertainty in getting the qualifying contributions from the seafarers.

(2) Continuation of shipowner's liability to provide medical care, maintenance and wages until the seaman returns to his port of recruitment.

(3) Inclusion, in agreements for seamen engaged on all foreign-going ships, of obligation for shipowner and seamen to comply with the provisions of the Seamen's Insurance Scheme.

(4) Provision of medical care when the seaman stays in the port or in his village if and when medical facilities become available, during a free insurance period, such care to be provided in seamen's clinics and provincial hospitals.

(5) Provision of cash benefit in case of sickness and injury mainly in the form of maintenance in approved hospitals and of some payment to the family.

(6) Provision of old age benefit at the age of 55.

(7) Financing of the insurance by contributions of shipowners and seamen, the State to bear the cost of administration and to provide hospitals.

(8) Provinces to bear part of the cost of medical care in hospitals.

### **Shipping Directorate<sup>5</sup>**

A new organisation called Directorate General of Shipping was set up by the Government of India in June 1950 with headquarters at Bombay with a view to facilitate smooth administration of all matters pertaining to merchant shipping and merchant shipping laws. It regulates the conditions of service of Indian seamen, promotes their welfare and provides for facilities for the training of officers. The offices of the Controller of Indian Shipping and the Seamen's Welfare Directorate have been merged with this Directorate General.

Indian Shipping laws are now being administered by three Ministries—administrative matters by the Commerce Ministry, industrial development like shipbuilding by the Ministry of Industry and Supply and ports and port facilities by the Transport Ministry. The Economy Committee has recommended a co-ordinated administration of shipping under one Ministry so that it would result in considerable economy in expenditure and personnel.

### **Proposal for Amendment of the Merchant Shipping Act, 1923**

An Indian Merchant Shipping Amending and Consolidating Bill is under preparation with the object of consolidating the various enactments relating to merchant shipping and to secure amendments to the existing laws so as to bring them into conformity with the requirements of the modern shipping practice and conditions.

### **Training of Seamen & Officers**

There are four institutions which provide for training for a career on the sea. They are—(1) The Training Ship "Duffrin"; (2) The Nautical and Engineering College, Bombay; (3) The Directorate of Marine Engineering Training College, Calcutta; (4) The Training Ships "Bhadra" and "Mekhala" stationed at Calcutta and Visakhapatnam respectively.

The first three institutions train executive officers and marine engineers for merchant navy. The Nautical and Engineering College at Bombay and the Directorate of Marine Engineering Training College at Calcutta have been made permanent organisations. The Radar Training Centre was opened in October 1953 under the auspices of the Nautical and Engineering College.

<sup>5</sup> The Merchant Shipping and Lighthouse (Amendment) Act, 1949 (LII of 1949) amended the Indian Merchant Shipping Act, 1923 by providing appointment of the Director-General of Shipping by the Central Government and delegation of powers to him.

The fourth institutions are intended for the training of ratings. They train about 1000 ratings annually.

### Seamen's Welfare

Substantial amounts have been sanctioned by the Central Government for the construction and equipment of Seamen's Clubs and Hostels in Indian ports. Welfare Officers have been appointed in major Indian ports and also in some foreign ports. The Welfare Officers co-ordinate the welfare activities in the respective ports and also assist in arranging medical and hospital facilities for the seamen. Clinics for seamen have been set up in Bombay and Calcutta and some beds have been specially reserved in local hospitals for seamen. Canteens for seamen have been opened in Bombay and Calcutta. A Seamen's Hostel was already constructed in Calcutta and arrangements have also been made to construct a building for Indian Seamen's Hostel at Madras.

## INDIAN MERCHANT SHIPPING ACT, 1923 (XXI OF 1923)

### Statement of Objects and Reasons<sup>1</sup>

The object of this Bill is to consolidate as far as may be the Indian Acts relating to merchant shipping. The first Act now on the Indian Statute Book dealing with that subject was passed in 1838 and the last in 1920 and during this period of nearly a century, a large number of Acts have been from time to time enacted by the Legislature. The result is that the law has become increasingly difficult to refer to and the case for consolidation is very strong.

2. Attempts have been made on several occasions in the past to remedy this state of affairs. In 1867, again in 1882 and more particularly in the years 1893 to 1896, Bills attempting to effect a complete or partial consolidation were brought before the Legislature. These attempts failed for a variety of causes with which it is unnecessary to enter in detail, but a possible cause common to all was the fact that consolidation and amendment were undertaken at the same time. If, as seems probable, the effects to consolidate and amend at the same time were contributory to the failures in the past, such course is not less undesirable in 1922, for the volume of law to be dealt with is far greater and the legislative machinery is far more complex. The present Bill, therefore, does not attempt to go beyond consolidation and that not even of the whole of the law which is not feasible for reasons which will be dealt with later.

3. The Bill has been prepared and considered by the Statute Law Revision Committee and they consider it a useful step towards the classification of the Statute Book.

They would recommend that the passage of the present Bill should be suspended at some convenient stage in its consideration by the Indian Legislature, and that an Amending Bill drawn to harmonise with this consolidating measure should, when all controversial points have been decided, be referred for amalgamation with the present Bill.

## INDIAN MERCHANT SHIPPING (AMENDMENT) ACT, 1949 (LIII OF 1949)

### Statement of Objects and Reasons<sup>2</sup>

This Bill seeks further to amend the Indian Merchant Shipping Act, 1923, with a view to vesting powers in the Central Government to establish or cause to be established, seamen's employment offices at ports in India. At present the number of seamen seeking employment at Indian ports is far in excess of the number of engagements available and this gives scope for corruption in securing engagements. In a number of other maritime

<sup>1</sup> Gazette of India, 1922, Part V, p. 166.

<sup>2</sup> Gazette of India, 1949, Part V, p. 348.



countries this problem has been solved by the establishment of Seamen's Employment Offices which make arrangements for the supply of maritime labour generally on the principle of rotation. The functions of the Employment Offices now contemplated will include the regulation of the supply of maritime labour in a similar manner.

## INDIAN MERCHANT SHIPPING (AMENDMENT) ACT, 1951 (XLII OF 1951)

### Statement of Objects and Reasons<sup>3</sup>

Section 37D of the Indian Merchant Shipping Act, 1923 (XXI of 1923), provides for the medical examination of young persons below 18 years of age only, before they can be engaged or carried to sea to work in any capacity in any ship. In order to ensure the recruitment of proper persons who are both physically and otherwise fit for the performance of their duties, it is necessary to provide for the medical examination of all persons who may wish to join the seafaring profession and to prescribe their qualifications.

2. The Standards of medical examination of, and the tests to be passed by, seamen will have to be sufficiently flexible in the first instance and, consequently, the Bill leaves the matter to be regulated by rules made in this behalf, the subjects on which rules may be made being set out in the Bill.

## INDIAN MERCHANT SHIPPING ACT, 1923 (XXI OF 1923)

### Arrangement of Sections

#### PART I—INTRODUCTORY

1. Short title and commencement.
2. Definitions.
3. Application of Act to ships propelled by electricity or mechanical power.
4. Exemption of public ships.
- 4A. Appointment of Director-General of Shipping.
- 4B. Delegation of powers to Director-General of Shipping.

#### PART II—MASTERS AND SEAMEN.

5. Application.

#### *Shipping Offices*

6. Shipping Offices.
7. Power to direct that business of shipping office be transacted at custom house office or elsewhere.
8. Business of shipping-masters.
9. Fees to be paid.
10. Prohibition on taking other remuneration at shipping office.

#### *Certificates of Competency*

11. Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passengers ships.
12. When officer deemed duly certificated.
13. Penalty for serving, etc., as a master, mate or engineer without a certificate.
14. Grades of certificates of competency.
15. Examinations for certificates.
16. Grant of certificates on passing examinations.
17. Certificates of service of Naval Officers.
18. Form of certificates.
19. Record of orders affecting certificates.
20. Loss of certificate.
21. Power to make rules as to grant of certificates of competency.
22. Production of certificates of competency to shipping-master.

#### *Apprenticeships to the Sea Service*

23. Application of Act XIX of 1950.

<sup>3</sup> Gazette of India Extraordinary, 1951, Part II—Section 2, p. 364.

*Supply of Seamen*

- 24. Licences to supply seamen.
- 25. Penalties for engaging seamen without licence.
- 25A. Seamen's Employment Offices for supply of seamen.
- 26. Penalty for receiving remuneration from seamen for shipping them.

*Engagement of Seamen*

- 26A. Medical examination of seamen.
- 26B. Qualifications for seamen.
- 27. Agreements with crew.
- 28. Form and contents of the agreement.
- 29. Engagement of single seaman where agreement is made out of India.
- 30. Special provisions with regard to agreements with crew of foreign-going ships.
- 31. Renewal of running agreements in certain cases.
- 32. Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.
- 33. Changes in crew of foreign-going ship to be reported.
- 34. Certificate as to agreement with crew of foreign-going ship.
- 35. Certificate as to agreement with crew of home-trade ship.
- 36. Copy of agreement to be made accessible to the crew.
- 37. Alteration in agreement with the crew.

*Employment of Young Persons*

- 37A. Definitions of "coasting-ship", "young lascar" and "young person".
- 37B. Employment of children.
- 37C. Engagement of young persons as trimmers or stokers.
- 37D. Medical examination of young persons.
- 37E. Maintenance of list or register of young persons in a ship.
- 37F. Penalty for contravention of sections 37B, 37C and 37D.
- 37G. Penalty for false representation by parent or guardian.
- 37H. Penalty for failure to produce medical certificate for inspection.
- 37I. Penalty for failure to keep or produce for inspection a register of young persons.
- 37J. Power to make rules.

*Engagement of Lascars by Masters of Foreign Ships*

- 38. Engagements between masters of foreign ships and lascars or native seamen.
- 39. Penalty for master of foreign ship illegally engaging native seamen.
- 40. Power to prohibit engagement of native seamen.
- 41. Power to board British ships and muster seamen.

*Discharge of Seamen*

- 42. Discharge before shipping-master.
- 43. Certificate of discharge and return of certificate to officer on discharge.
- 43A. Certificate as to work of seamen.

*Payment of Wages*

- 44. Master to deliver account of wages.
- 45. Deductions from wages of seamen.
- 46. Payment of wages before shipping-master.
- 47. Time of payment of wages.
- 48. Settlement of wages.
- 49. Decision of questions by shipping-masters.
- 50. Power of shipping-master to require production of ship's papers.
- 51. Rate of exchange for payment of seamen in Indian money.

*Advance and Allotment of Wages*

- 52. Advances and allotments.
- 53. Regulations as to allotment notes.
- 54. Payment of sums allotted.
- 55. Right to wages and provisions.
- 56. Right to recover wages and salvage not to be forfeited.

- 57. Wages not to depend on freight.
- 58. Wages on termination of service by wreck or illness.
- 58A. Special provision for ship-wrecked lascars. Act IX of 1931.
- 59. Wages not to accrue during refusal to work or imprisonment.

*Rights of Seamen in respect of Wages*

- 60. Power to deduct from wages cost of procuring conviction.
- 61. Compensation to seamen.
- 62. Restriction on sale of and charge upon wages.

*Mode of recovering Wages*

- 63. Summary proceedings for wages.
- 64. Restriction on suits for wages.
- 65. Remedies of masters for wages.

*Property of deceased Seamen*

- 66. Master to take charge of the effects of deceased seamen.
- 67. Disposal of property of seamen who die during the voyage.
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- 88. Weights and measures on board.
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- 92. Facilities for making complaints.

*Protection of Seamen from Imposition*

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- 95. Penalty for overcharges by lodging-house-keepers.
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# INDIAN MERCHANT SHIPPING ACT, 1923 (XXI OF 1923)<sup>1</sup>

[2nd April, 1923.]

*An Act to consolidate certain enactments relating to Merchant Shipping.*

Whereas it is expedient to consolidate certain enactments relating to Merchant Shipping; It is hereby enacted as follows:—

## PART I.—INTRODUCTORY

**1. Short title and commencement.**—(1) This Act may be called the Indian Merchant Shipping Act, 1923.

(2) It shall come into force on such date<sup>2</sup> as the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], appoint.

<sup>5</sup>[2. (1)] **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(1) “effects” includes clothes and documents;

(2) “foreign-going ship” means a ship, not being a home-trade ship, employed in trading between any port in <sup>6</sup>[India] and any other port or place;

(3) “home-trade ship” means a ship employed in trading between any ports in <sup>6</sup>[India] or between any port in <sup>6</sup>[India] and any port or place on the continent of India <sup>6</sup>[or in Burma] or in the Straits Settlements, or in the Island of Ceylon;

<sup>7</sup>[(3A) “Indian ship” means a ship registered in India whether before or after the commencement of the Constitution in accordance with the law for the time being in force relating to the registration of ships.]

(4) “master” includes every person (except a pilot or harbour master) having command or charge of a ship;

(5) “Merchant Shipping Acts” means the Merchant Shipping Acts, <sup>8</sup>[1894—1932];

<sup>9</sup>[(6A) “passenger steamer” means a steamship carrying more than twelve passengers;]

(7) “prescribed” means prescribed by rules made under this Act;

(8) “seaman” means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;

(9) “steam-ship” means every description of vessel used in navigation and propelled wholly or in part by the agency of steam; and

(10) “wages” includes emoluments.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 166; see also page 593 ante.

This Act has been applied to Sonthal Parganas by the Sonthal Parganas Laws Regulation, 1941 (Bihar Regulation 2 of 1941).

<sup>2</sup> 1st May, 1923, vide Notification No. 2325, dated the 25th April, 1923, Gazette of India, 1923, Part I, p. 381.

<sup>3</sup> Subs. by the A. O. 1937.

<sup>4</sup> Section 2 renumbered as sub-section (1) of s. 2, *ibid.*

<sup>5</sup> Subs. by the A. O. 1950.

<sup>6</sup> Ins. by the A. O. 1937.

<sup>7</sup> Ins. by the A. O. 1950.

<sup>8</sup> Subs. by Act 25 of 1933, s. 2.

<sup>9</sup> Added, *ibid.*

<sup>10</sup>[1A) For the purposes of this Act, references to British ships shall be deemed to include references to Indian ships and the provisions of the Act shall apply accordingly.]

<sup>11</sup>[(2) As from the commencement<sup>12</sup> of Part III of the Government of India Act, 1935 (26 Geo. 5 Ch. 2), a British ship registered, whether before or after that date, in Burma or Aden shall not be deemed for the purposes of any enactment relating to British ships registered in <sup>13</sup>[India] to be such a ship so registered] <sup>14</sup>[and as from the fifteenth day of August, 1947, a British ship registered before that date within the territories which on that date constituted the Dominion of Pakistan, or registered on or after that date in Pakistan, shall not be deemed for purposes of the aforesaid to be a British ship registered in India].

**3. Application of Act to ships propelled by electricity or mechanical power.**—The provisions of this Act applying to steamships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the <sup>15</sup>[Central Government] may, by notification in the <sup>15</sup>[Official Gazette] direct for the purpose of adaptation.

**4. Exemption of public ships.**—This Act shall not, except where specially provided, apply to ships belonging to <sup>16</sup>[the Government or] His Majesty <sup>17</sup>\* \* \* \* or to ships belonging to any foreign Prince or State <sup>18</sup>\* \* \* and employed otherwise than for profit in the public service of that foreign Prince or State <sup>18</sup>\* \* \* \*

<sup>19</sup>[4A. **Appointment of Director-General of Shipping.**—The Central Government may, by notification in the official Gazette, appoint a Director-General of Shipping.]

<sup>19</sup>[4B. **Delegation of powers to Director-General of Shipping.**—The Central Government may, by order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act or of the Merchant Shipping Acts as may be specified in the direction shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General of Shipping.]

## PART II.—MASTERS AND SEAMEN

**5. Application.**—(1) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Indian Registration of Ships Act, 1841 (X of 1841), and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows:—

(a) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages,

<sup>10</sup> Ins. by the A. O. 1950.

<sup>11</sup> Ins. by the A. O. 1937.

<sup>12</sup> 1st April, 1937.

<sup>13</sup> Subs. by the A. O. 1948.

<sup>14</sup> Ins., *ibid.*

<sup>15</sup> Subs. by the A. O. 1937.

<sup>16</sup> Ins. by the A. O. 1950.

<sup>17</sup> Certain words omitted by the A. O. 1937.

<sup>18</sup> Certain words omitted by the A. O. 1950.

<sup>19</sup> Ins. by s. 2 of Act 52 of 1949.

and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in <sup>20</sup>[India.]

<sup>21</sup>[(aa) The provisions relating to the employment of young persons shall apply to ships registered in <sup>20</sup>[India] and to foreign ships in the manner prescribed in the said provisions.]

(b) The provisions relating to the property of diseased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in <sup>20</sup>[India].

(c) The provisions relating to the rights of seamen, in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in <sup>22</sup>[India], while such ships are in <sup>22</sup>[India].

(d) The provisions relating to official logs shall apply to sea-going ships registered in <sup>22</sup>[India], and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in <sup>22</sup>[India] and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

(3) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the Merchant Shipping Act, 1894 and are not local in their application, have, by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in <sup>22</sup>[India].

### *Shipping Offices*

**6. Shipping Offices.**—(1) Shipping offices shall be maintained at every port in <sup>22</sup>[India] where there is a shipping office at the commencement of this Act, and may be established and maintained at such other ports as the <sup>23</sup>[Central Government] may deem necessary.

(2) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the <sup>23</sup>[Central Government] may consider necessary.

(3) Shipping-masters and deputy shipping-masters shall be appointed by the <sup>23</sup>[Central Government], and shall <sup>24</sup>\* be subject to <sup>25</sup>[<sup>23</sup>[its] control or to the control] of any intermediate authority which <sup>23</sup>[it] may appoint.

(4) Every act done by or before a deputy shipping-master shall have the same effect as if done by or before a shipping-master.

**7. Power to direct that business of shipping office be transacted at custom house office or elsewhere.**—(1) The <sup>23</sup>[Central Government] may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other office as the <sup>23</sup>[Central Government] shall direct, and, thereupon the same shall be conducted accordingly.

<sup>21</sup> Ins. by s. 2 of Act 9 of 1931.

<sup>20</sup> & <sup>22</sup> Subs. by the A. O. 1950.

<sup>23</sup> Subs. by the A. O. 1937.

<sup>24</sup> Certain word omitted by Act 6 of 1928, s. 6 and Sch.

<sup>25</sup> Subs., *ibid.*

(2) In respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

**8. Business of shipping-masters.**—It shall be the general business of shipping-masters—

- (i) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided;
- (ii) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;
- (iii) to give to all persons desirous of apprenticing boys to the sea service and duly authorised so to do by the Apprentices Act, 1850 (XIX of 1850), and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships;
- (iv) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act or the Merchant Shipping Acts.

**9. Fees to be paid.**—(1) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the <sup>26</sup>[Central Government] shall be payable upon all engagements and discharges effected before shipping-masters.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B, in Schedule I:

Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

**10. Prohibition on taking other remuneration at shipping office.**—If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorised under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office.

#### *Certificates of Competency*

**11. Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.**—(1) Every British foreign-going

<sup>26</sup> Subs. by the A. O. 1937.



ship and every British home-trade ship of three hundred tons or upwards when going to sea from any place in <sup>27</sup>[India] shall be provided with officers duly certificated under this Act according to the following scale, namely:—

(a) in any case, with a duly certificated master;

(b) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

(2) Every British foreign-going steamship when going to sea from any place in <sup>27</sup>[India] shall be provided with engineers duly certificated under this Act according to the following scale, namely:—

(a) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated;

(b) if the ship is of less than one hundred nominal horse-power, with at least one engineer who is a first class or second class engineer duly certificated.

(3) Every British home-trade steamship when going to sea from any place in <sup>27</sup>[India] and every foreign steam-ship carrying passengers, between places in <sup>27</sup>[India] shall be provided with engineers duly certificated according to the following scale, namely:—

(a) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated;

(b) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second-class engineer, or an engine driver duly certificated.

(4) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1917 (I of 1917), apply.

**12. When officer deemed duly certificated.**—An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade,

(a) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby; or

(b) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the Merchant Shipping Act, 1894 (57 & 58 Vict., C. 60), to have the same force as if they were granted under that Act.

**13. Penalty for serving, etc., as a master, mate or engineer without a certificate.**—Any person who,—

(a) having been engaged as one of the officers mentioned in section eleven, goes to sea as such officer without being duly certificated, or

(b) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

**14. Grades of certificates of competency.**—(1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely:—

Master of foreign-going ship.

First mate of foreign-going ship.

Second mate of a foreign-going ship.

Master of a home-trade ship.

Mate of a home-trade ship.

First class engineer.

Second class engineer.

Engine driver.

(2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

**15. The examinations for certificates.**—The <sup>28</sup>[Central Government] or a person duly authorised by the <sup>28</sup>[Central Government] in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act.

**16. Grant of certificates on passing examinations.**—The <sup>28</sup>[Central Government] or such authorised person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires:

Provided that the <sup>28</sup>[Central Government] may, in any case in which <sup>28</sup>[it] has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

**17. Certificates of service of Naval Officers.**—(1) A person who has attained the rank of Lieutenant in His Majesty's Navy or in the <sup>28</sup>[<sup>29</sup>\* Indian Navy] shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

(2) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or the <sup>28</sup>[<sup>29</sup>\* \* Indian Navy], shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the <sup>28</sup>[Central Government] shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency.

**18. Form of certificates.**—Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the <sup>28</sup>[Central Government] and recorded in the prescribed manner.

**19. Record of orders affecting certificates.**—A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the <sup>28</sup>[Central Government].

<sup>28</sup> Subs. by the A. O. 1937.

<sup>29</sup> The word "Royal" omitted by the A. O. 1950.

**20. Loss of certificate.**—Whenever a master, mate, engineer or engine driver proves to the satisfaction of the <sup>30</sup>[Central Government] <sup>31</sup>\* \* \* that he has, without fault on his part, lost or been deprived of a certificate already granted to him <sup>32</sup>[under this Act] the <sup>30</sup>[Central Government] shall cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

**21. Power to make rules as to grant of certificates of competency.**—(1) The <sup>30</sup>[Central Government] <sup>31</sup>\* \* \* may make rules to regulate the granting of certificates of competency under this Act, and may, by such rules,—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers, or engine drivers;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, second mates, first class engineers, second class engineers, or engine drivers;
- (c) fix the fees to be paid by applicants for examination; and
- (d) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the <sup>30</sup>[Central Government] is to be recorded.

**22. Production of certificates of competency to shipping-master.**—(1) The master of a foreign-going ship—

- (a) on signing the agreement with his crew shall produce to the shipping-master, before whom the same is signed, the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold; and
- (b) in the case of a running agreement shall, also, before the second and every subsequent voyage, produce to the shipping-master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2) The master or owner of every home-trade ship of more than three hundred tons burden shall produce to some shipping-master in <sup>33</sup>[India], within twenty-one days after the thirtieth of June and the thirty-first of December in every year, or (if the ship is not at any port in <sup>33</sup>[India], within twenty-one days after either the thirtieth of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in <sup>33</sup>[India], the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold.

(3) Upon the production of the certificates of competency, the shipping-master shall, if the certificates are such as the master, mates, and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(4) The master shall, before proceeding to sea, produce the certificate given to him by the shipping-master to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(5) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced.

<sup>30</sup> Subs. by the A. O. 1937.

<sup>31</sup> Certain words omitted by Act 6 of 1928, s. 6 and Sch.

<sup>32</sup> Ins. *ibid.*

<sup>33</sup> Subs. by the A.O. 1950.

*Apprenticeships to the Sea Service*

**23. Application of Act XIX of 1850.**—(1) <sup>34</sup> \* \* \* \* Any boy<sup>35</sup>[not under fourteen years of age] may be bound as an apprentice in the sea service to the owner of any ship registered in <sup>33</sup>[India] to be employed in any such ship, being the property of such person, the master of which is a <sup>33</sup>[citizen of India or a Commonwealth citizen], and while so employed to be taught the craft and duty of a seaman, and the provisions of the <sup>36</sup>[Apprentices Act, 1850, shall, subject to the provisions of this Act], apply accordingly.

(2) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the Agent of such party for the purposes of the said Act.

(3) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping-master of the port where the apprentice is to begin his service.

<sup>37</sup>[*Supply of Seamen*]

**24. Licences to supply seamen.**—(1) The <sup>38</sup>[Central Government] or any person duly authorised by the <sup>38</sup>[Central Government] in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in <sup>39</sup>[India].

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the <sup>38</sup>[Central Government] thinks proper.

**25. Penalties for engaging seamen without licence.**—(1) A person shall not engage or supply a seaman to be entered on board any ship in <sup>39</sup>[India] unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bona fide* the servant and in the constant employ of the owner, or is a shipping-master.

(2) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in <sup>39</sup>[India], any person unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bona fide* the servant and in the constant employment of the owner, or is a shipping-master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

<sup>34</sup> Certain words omitted by Act 9 of 1931, s. 3.

<sup>35</sup> Ins. *ibid.*

<sup>36</sup> Subs. *ibid.*

<sup>37</sup> The heading was substituted for "Licenses to supply seamen" by the Indian Merchant Shipping (Amendment) Act, 1949 (LIII of 1949). Effective from 15-1-54, vide the Ministry of Transport Notification No. S.R.O. 222 dated the 5th January, 1954.

<sup>38</sup> Subs. by the A.O. 1937.

<sup>39</sup> Subs. by the A. O. 1950.

<sup>40</sup>[25A. **Seamen's Employment Offices for the supply of seamen.**—(1) The Central Government may, by notification in the official Gazette, establish at such ports as it thinks fit Seamen's Employment Offices for the purpose of engaging or supplying seamen for merchant ships and generally for regulating the supply of maritime labour.

(2) The Central Government may, by notification in the official Gazette, direct that at any port at which no separate Seamen's Employment Office is established under sub-section (1), the functions of the Seamen's Employment Office in that port shall be discharged by such person or body of persons as it may specify in the notification, and thereupon the person or body of persons so specified shall be deemed to be the Seamen's Employment Office established at that port within the meaning of this Act.

(3) Where there is in existence at any port a Seamen's Employment Office within the meaning of sub-section (1) or sub-section (2), then, notwithstanding anything to the contrary contained in any other provision of this Act, no person shall receive or accept to be entered on board any ship any seaman unless such seaman has been engaged through or supplied by such Seamen's Employment Office.

(4) If any person receives or accepts to be entered on board any ship any seaman in contravention of the provisions of this section, he shall, for each seaman in respect of whom an offence is committed, be liable to a fine which may extend to one hundred rupees.

(5) (a) The Central Government may, by notification in the official Gazette, make rules for the purpose of enabling Seamen's Employment Offices effectively to exercise its powers under this Act.

(b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (i) the consultation with respect to any specified matter by Seamen's Employment Offices with such Advisory Boards or other authorities as the Central Government may think fit to constitute or specify in this behalf;
- (ii) the levy and collection, notwithstanding anything contained in section 26 or in any other provision of this Act, of such fee as may be specified by any Seamen's Employment Office for registering the name of any seaman in any register maintained by it;
- (iii) the issue from time to time of directions by the Central Government to any Seamen's Employment Office with reference to the exercise of any of its powers; and
- (iv) the supersession of any Seamen's Employment Office which fails to comply with any such direction.

**Explanation.**—In this section "seaman" means every person employed or engaged in any capacity on board any ship, but does not include ship's officers, masters, pilots or apprentices duly indentured and registered, unless declared by the Central Government, by notification in the official Gazette, to be so included.]

**26. Penalty for receiving remuneration from seamen for shipping them.**—

(1) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person

<sup>40</sup> Section 25A was inserted by Act LIII of 1949. Under this Section, the Central Government has framed the Seamen's Employment Office, Bombay Rules on the 15th May 1954 and the Seamen's Employment Office, Calcutta Rules on the 19th October, 1954.

on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

<sup>41</sup>[26A. **Medical examination of seamen.**—(1) Subject to the provisions of any rules made under sub-section (3), no person shall engage or carry to sea any seaman to work in any capacity in any ship unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity.

(2) If any person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each seaman in respect of whom the offence is committed, be liable to a fine which may extend to one hundred rupees.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this section, and, in particular and without prejudice to the generality of such power, any rules so made may provide for—

- (a) the standard of physical fitness required of seamen, and different standards may be laid down in different cases or for different classes of seamen, having regard to the age of the seamen to be examined or the nature of the duties to be performed by them;
- (b) the nature of the medical examination of seamen, the authorities by which the examination shall be conducted and the fees payable therefor;
- (c) the form and contents of medical certificates and the period of their validity;
- (d) the re-examination by such medical authority as may be specified of persons who have been refused medical certificates of physical fitness in the first instance and the fees payable for such re-examination;
- (e) the circumstances in which or the conditions subject to which any seaman or class of seamen may be exempted from the operation of sub-section (1).

**26B. Qualifications for seamen.**—(1) From such date as may be fixed in this behalf by the Central Government by notification in the Official Gazette, no seaman shall be engaged or carried to sea to work in any capacity in any ship unless he possesses the prescribed qualifications.

(2) If any person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each seaman in respect of whom the offence is committed, be liable to a fine which may extend to one hundred rupees.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this section, and, in particular and without prejudice to the generality of such power, any rules so made may provide for—

- (a) the courses of training to be pursued, or
- (b) the vocational standards to be attained, or
- (c) the tests to be passed,

by seamen generally or by any class of seamen in particular.]

<sup>41</sup> Ins. by Act XLII of 1951, s. 2. Under this section, the Central Government has framed Medical Examination Rules on the 16th July, 1951 effective from the said date.

*Engagement of Seamen*

**27. Agreements with crew.**—(1) The master of every British ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew, from any port in <sup>42</sup>[India].

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

**28. Form and contents of the agreement.**—(1) An agreement with the crew shall be in a form sanctioned by the <sup>43</sup>[Central Government], and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;
- (b) the number and description of the crew, specifying how many are engaged as sailors;
- (c) the time at which each seaman is to be on board or to begin work;
- (d) the capacity in which each seaman is to serve;
- (e) the amount of wages which each seaman is to receive;
- (f) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the <sup>43</sup>[Central Government] <sup>44</sup> \* \* \* \* and published in the <sup>45</sup>[Official Gazette];
- (g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the <sup>43</sup>[Central Government] as regulations proper to be adopted, and which the parties agree to adopt; and
- (h) where it is agreed that the services of any lascar or other native seaman shall end at any port not in <sup>45</sup>[India], a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in <sup>45</sup>[India] as may be agreed on, or a passage to some port in <sup>45</sup>[India] free of charge or on such other terms as may be agreed upon, and in this provision the word "seaman" shall include also any native of <sup>45</sup>[India] carried to sea from any port in <sup>45</sup>[India] as one of the crew:

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(3) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

<sup>42</sup> & <sup>45</sup> Subs. by the A. O. 1950.

<sup>43</sup> Subs. by the A. O. 1937.

<sup>44</sup> Certain words omitted by Act 6 of 1928, s. 4.

(4) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

**29. Engagement of single seaman where agreement is made out of India.**—If the master of a ship registered at a port outside <sup>46</sup>[India] has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seamen in any port in <sup>46</sup>[India], the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

**30. Special provisions with regard to agreements with crew of foreign-going ships.**—(1) The following provisions shall have effect with respect to the agreements with the crew made in <sup>46</sup>[India] in the case of foreign-going ships registered either within or without <sup>46</sup>[India], namely:—

- (a) The agreement shall, subject to the provision of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.
- (b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.
- (c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.
- (e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements.
- (f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in <sup>46</sup>[India] after such date, or the discharge of cargo consequent upon that arrival.
- (g) On every return to a port in <sup>46</sup>[India] before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those

<sup>46</sup> Subs. by the A. O. 1950.



made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

(h) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) In the case of a ship—

(a) registered in <sup>47</sup>[India], or

(b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in <sup>47</sup>[India] after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of <sup>47</sup>[India] to any other such port which is not on the direct road or a customary route to her port of destination in <sup>47</sup>[India]:

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in <sup>47</sup>[India], and for other purposes on the termination of the agreement at a port out of <sup>47</sup>[India] under the foregoing proviso, as the <sup>48</sup>[Central Government] may direct.

**31. Renewal of running agreements in certain cases.**—(1) When a running agreement has been made with the crew of a foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in <sup>47</sup>[India] which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in <sup>47</sup>[India] at which the crew have agreed to be discharged.

(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by <sup>48</sup>[the Central Government] for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

**32. Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.**—The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act, namely:—

(a) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.

<sup>47</sup> Subs. by the A. O. 1950.

<sup>48</sup> Subs. by the A. O. 1937.

- (b) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.
- (c) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act, with respect to the making of the agreement, shall apply accordingly.
- (d) Agreements shall not extend beyond the next following thirtieth day of June, or thirty-first day of December or the first arrival of the ship at her final port of destination in <sup>49</sup>[India] after such date, or the discharge of cargo consequent on that arrival:

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the <sup>50</sup>[Central Government] with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.

**33. Changes in crew of foreign-going ship to be reported.**—(1) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall before finally leaving <sup>49</sup>[India] sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the <sup>50</sup>[Central Government], of every change which takes place in his crew before finally leaving <sup>49</sup>[India], and that statement shall be admissible in evidence.

(2) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

**34. Certificate as to agreement with crew of foreign-going ship.**—(1) In the case of a foreign-going ship on the due execution of an agreement with the crew in accordance with this Act, and also, when the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(3) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in <sup>49</sup>[India], or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon give to the master

<sup>49</sup> Subs. by the A.O. 1950.

<sup>50</sup> Subs. by the A.O. 1937.

a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(5) Any master who fails without reasonable cause so to deliver the agreement with the crew, shall be liable for each offence to a fine which may extend to fifty rupees.

**35. Certificate as to agreement with crew of home-trade ship.**—(1) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in <sup>51</sup>[India], within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in <sup>51</sup>[India], deliver or transmit to a shipping-master in <sup>51</sup>[India] every agreement made within the six months next preceding such days respectively.

(2) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(3) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

**36. Copy of agreement to be made accessible to the crew.**—(1) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

**37. Alteration in agreement with the crew.**—Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made <sup>52</sup>[in India or any other Commonwealth country]) of some shipping-master, Justice, officer of Customs, or other public functionary, or (if made <sup>52</sup>[elsewhere]) of <sup>52</sup>[an Indian or British Consular Officer], or, where there is no such officer, of two respectable <sup>52</sup>[Indian or British merchants].

#### <sup>53</sup>[*Employment of Young Persons*]

**37A. Definitions of "coasting-ship", "young laskar" and "young person".**—For the purposes of the following provisions—

- (i) "coasting-ship" means a ship exclusively employed in trading between any ports or places on the continent of India, <sup>54</sup>\* \* \*, or between ports or places on the continent of India and ports or places in the island of Ceylon <sup>55</sup>[or in Burma];

<sup>51</sup> & <sup>52</sup> Subs. by the A. O. 1950.

<sup>53</sup> The heading and Sections 37A to 37J were inserted by Act IX of 1931.

<sup>54</sup> Certain words omitted by the A.O. 1937.

<sup>55</sup> Ins., *ibid.*

- (ii) " young lascar " means a lascar or other native seaman under eighteen years of age; and
- (iii) " young person " means a person under eighteen years of age, and includes a young lascar.

**37B. Employment of children.**—No young person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship registered in <sup>56</sup>[India] and no young lascar under fourteen years of age be engaged or carried to sea to work in any capacity in any foreign ship, except—

- (a) in a school-ship, or training-ship, in accordance with the prescribed conditions; or
- (b) in a ship in which all persons employed are members of one family; or
- (c) in a home-trade ship of a burden not exceeding three hundred tons; or
- (d) where such young person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

**37C. Engagement of young persons as trimmers or stokers.**—(1) Subject to the provisions of sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship registered in <sup>56</sup>[India], and no young lascar shall be engaged or carried to sea to work as a trimmer or stoker in any foreign ship.

(2) Sub-section (1) shall not apply—

- (a) to any work of trimming or stoking done by a young person in a school-ship or training-ship in accordance with the prescribed conditions; or
- (b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or
- (c) to the engagement or carrying to sea of a young person over sixteen years of age to work as a trimmer or stoker on a coasting-ship, provided he is employed in accordance with the prescribed conditions.

(3) Where in any port a trimmer or stoker is required for any ship mentioned in sub-section (1), other than a coasting-ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(4) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

**37D. Medical examination of young persons.**—(1) Subject to the provisions of sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in <sup>56</sup>[India], and no young lascar shall be engaged or carried to sea to work in any capacity, in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(2) Sub-section (1) shall not apply—

- (a) to the employment of a young person in a ship in which all persons employed are members of one family; or
- (b) where the shipping-master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (1) being delivered to the master, and the young person is not employed beyond the first port at which the ship

<sup>56</sup> Subs. by the A.O. 1950.

in which he is so engaged calls except in accordance with the provisions of sub-section (1).

(3) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

**37E. Maintenance of list or register of young persons in a ship.**—There shall be included in every agreement with the crew of every ship registered in <sup>57</sup>[India] and every foreign ship, which engages young persons in <sup>57</sup>[India], a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

**37F. Penalty for contravention of sections 37B, 37C and 37D.**—If any young person is carried to sea to work in contravention of section 37B, section 37C or section 37D, the master of the ship shall for each such offence be liable to a fine which may extend to fifty rupees.

**37G. Penaty for false representation by parent or guardian.**—If any young person is engaged to work in any capacity in a ship in contravention of section 37B, section 37C or section 37D on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections, such parent or guardian shall be liable to a fine which may extend to fifty rupees.

**37H. Penalty for failure to produce medical certificate for inspection.**—If the master of any ship refuses or neglects to produce for inspection any medical certificate delivered to him under section 37D when required so to do by a shipping-master, he shall for each such offence be liable to a fine which may extend to fifty rupees.

**37I. Penalty for failure to keep or produce for inspection a register of young persons.**—If the master of a ship where there is no agreement with the crew fails to keep the register of young persons required to be kept by him under section 37E, or refuses or neglects to produce such register for inspection when required so to do by a shipping-master, he shall be liable to a fine which may extend to two hundred rupees.

**37J. Power to make rules.**—(1) The <sup>58</sup>[Central Government] may make rules prescribing—

- (a) the conditions of employment of young persons, in any capacity, in school-ships and training-ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;
- (b) the conditions of employment of young persons as trimmers or stokers in coasting-ships;
- (c) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 37D; and
- (d) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(2) Rules under clause (b) shall be made after consultation with such organisations in <sup>57</sup>[India] as the <sup>58</sup>[Central Government] may consider to be most representative of the employers of seamen and of seamen.]

<sup>57</sup> Subs. by the A.O. 1950.

<sup>58</sup> Subs. by the A.O. 1937.

*Engagement of Lascars by Masters of Foreign Ships.*

**38. Engagements between masters of foreign ships and lascars or native seamen.**—(1) When the master of a foreign ship being at any port in <sup>59</sup>[India] engages any lascar or other native seaman to proceed to any port out of <sup>59</sup>[India], he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(2) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in <sup>59</sup>[India] for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the <sup>60</sup>[Central Government] of all expenses which may be incurred by <sup>60</sup>[the Central Government] in respect of any such lascar or other native seaman who is discharged or left behind at any port out of <sup>59</sup>[India] and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

(4) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

**39. Penalty for master of foreign ship illegally engaging native seamen.**—If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

**40. Power to prohibit engagement of native seamen.**—(1) The <sup>60</sup>[Central Government] or such officer as <sup>60</sup>[it] may appoint in this behalf may, by order in writing, prohibit any person from engaging in <sup>59</sup>[India] or in any specified portion of <sup>59</sup>[India], any native of India to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing.

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

**41. Power to board British ships and muster seamen.**—(1) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in <sup>59</sup>[India] contrary to the provisions of this Act, any shipping-master or deputy shipping-master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

(2) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (1), he shall be liable to a fine which may extend to one hundred rupees.

*Discharge of Seamen*

**42. Discharge before shipping-master.**—(1) When a seaman serving in a British foreign-going ship is, on the termination of his engagement, discharged in

<sup>59</sup> Subs. by the A. O. 1950.

<sup>60</sup> Subs. by the A. O. 1937.

<sup>61</sup>[India], he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

(2) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(3) If the master or owner of a home-trade ship, of more than three hundred tons burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

**43. Certificate of discharge and return of certificate to officer on discharge.—**

(1) The master shall sign and give to a seaman discharged from his ship in <sup>61</sup>[India], either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the <sup>62</sup>[Central Government] specifying the period of his service and the time and place of his discharge.

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to a fine which may extend to two hundred rupees.

<sup>63</sup>[43A. **Certificate as to work of seaman.**—The master of every ship, except home-trade ships of a burden not exceeding three hundred tons, shall sign and give to a seaman discharged from his ship in <sup>61</sup>[India], either on his discharge or on payment of his wages, a certificate in a form sanctioned by the <sup>62</sup>[Central Government] stating—

(a) the quality of the work of the seaman; or

(b) whether the seaman has fulfilled his obligations under the agreement with the crew.

(2) If the master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees].

*Payment of Wages*

**44. Master to deliver account of wages.**—(1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the <sup>62</sup>[Central Government] of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered—

(a) where the seaman is not discharged before the shipping-master, to the seaman himself, not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

<sup>61</sup> Subs. by the A. O. 1950.

<sup>62</sup> Subs. by the A. O. 1937.

<sup>63</sup> Ins. by Act 9 of 1931, s. 5.

**45. Deductions from wages of seamen.**—(1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

**46. Payment of wages before shipping-master.**—(1) Where a seaman is discharged before a shipping-master in <sup>64</sup>[India], he shall receive his wages through, or in the presence of, a shipping-master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in <sup>64</sup>[India] in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(2) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

**47. Time of payment of wages.**—(1) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond the respective times, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

**48. Settlement of wages.**—(1) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the <sup>65</sup>[Central Government] of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

(2) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master

<sup>64</sup> Subs. by the A. O. 1950.

<sup>65</sup> Subs. by the A. O. 1937.



and his employer, be admissible as evidence that the master has made the payments therein mentioned.

**49. Decision of questions by shipping-masters.**—(1) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

(2) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

**50. Power of shipping-master to require production of ship's papers.**—

(1) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman, the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

(2) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

**51. Rate of exchange for payment of seamen in Indian money.**—Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency, the seaman or apprentice shall be entitled to demand and recover in <sup>66</sup>[Indian currency] the amount due to him estimated according to the rate of exchange for the time being fixed <sup>67</sup>\* \* \* \* for the adjustment of financial transactions between <sup>68</sup>[the Government of India and the Government of the United Kingdom.]

#### *Advance and Allotment of Wages*

**52. Advances and allotments.**—(1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in <sup>66</sup>[India] shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

**53. Regulations as to allotment notes.**—(1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

<sup>66</sup> Subs. by the A. O. 1950.

<sup>67</sup> Certain words omitted by the A. O. 1937.

<sup>68</sup> Subs. by the A. O. 1948.

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one-third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the <sup>66</sup>[Central Government].

**54. Payment of sums allotted.**—(1) The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping-master on demand the sums due under the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(2) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(3) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(4) The said book shall be at all reasonable times open to the inspection of the parties concerned.

### *Rights of Seamen in respect of Wages*

**55. Right to wages and provisions.**—A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens.

**56. Right to recover wages and salvage not to be forfeited.**—(1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

**57. Wages not to depend on freight.**—(1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight

<sup>66</sup> Subs. by the A. O. 1937.

**65. Remedies of masters for wages.**—(1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set off or counter claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

#### *Property of Deceased Seamen*

**66. Master to take charge of the effects of deceased seamen.**—(1) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in <sup>75</sup>[India] dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars, namely:—

- (a) a statement of the amount of money and a description of the effects;
- (b) in the case of a sale, a description of each article sold and the sum received for each; and

(c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

**67. Disposal of property of seamen who die during the voyage.**—(1) The master shall, within forty-eight hours after his arrival at his port of destination in <sup>75</sup>[India], deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

(2) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

**68. Penalty for non-compliance with provisions as to property of deceased seamen.**—(1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

(2) The property may be recovered in the same Court and manner in which the wages of seaman may be recovered under this Act.

**69. Payment over property of deceased seamen by shipping-master.**—Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect

<sup>75</sup> Subs. by the A. O. 1950.

of that seaman or apprentice or of his property such sums as he thinks proper to allow, may:—

- (a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or
- (b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889 (VII of 1889)<sup>76</sup>, to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

**70. Disposal of unclaimed property of deceased seamen.**—(1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the shipping-master, no claim to such property shall be entertained without the sanction of the <sup>77</sup>[Central Government.]

#### *Distressed Seamen*

**71. Relief of distressed seamen to whom Merchant Shipping Acts apply.**—

(1) A certificate of the <sup>77</sup>[Central Government] or of such officer as the <sup>77</sup>[Central Government] may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

(2) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one hundred rupees.

**72. Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.**—(1) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in <sup>79</sup>[India], the <sup>78</sup>[Central Government] may, from time to time by notification in the <sup>78</sup>[Official Gazette] authorise, either generally or specially such persons as <sup>78</sup>[it] thinks fit to sue for and recover, in manner in the Merchant Shipping Acts provided, those wages or expenses.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872 (I of 1872.)

<sup>76</sup> See now the Indian Succession Act, 1925 (XXXIX of 1925).

<sup>77</sup> & <sup>78</sup> Subs. by the A. O. 1937.

<sup>79</sup> Subs. by the A.O. 1950.

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the <sup>80</sup>[Central Government].

*Relief of Distressed Seamen to whom the Merchant Shipping Acts do not apply*

**73. Provisions of the Act not to apply to seamen or apprentices to whom Merchant Shipping Acts apply.**—Nothing in the following provisions of this Part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

**74. Relief of distressed seamen at Indian ports.**—(1) Where any seamen or apprentices—

(a) being <sup>81</sup>[citizens of India] are found at any place in <sup>81</sup>[India] and have been shipwrecked, discharged or left behind whether from any British ship or from any of His Majesty's ships <sup>82</sup>[or any of the ships of the Government] and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and are in distress in <sup>81</sup>[India]; and

(b) not being Indian subjects have been shipwrecked, discharged or left behind at any place in <sup>81</sup>[India] from any British ship registered in <sup>81</sup>[India] and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(2) "Local authority", in relation to the provisions of this Act as to distressed seamen, means such person as the <sup>80</sup>[Central Government] may, <sup>83</sup> \* \* \* appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

**75. Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.**—(1) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging <sup>84</sup>[any Citizen of India or] any subject of His Majesty which is in want of men to make up its complement and is bound—

(a) in the case of distressed seamen who are <sup>81</sup>[citizens of India], to their home or to a port in <sup>81</sup>[India] near their home;

(b) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the <sup>80</sup>[Central Government], may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

**76. Name and other particulars with regard to seamen to be endorsed on agreement of British ship.**—The local authority shall endorse on the agreement

<sup>80</sup> Subs. by the A.O. 1937.

<sup>81</sup> Subs. by the A.O. 1950.

<sup>82</sup> *Ins. ibid.*

<sup>83</sup> Certain words omitted by Act 6 of 1928, s. 4 and Sch.

<sup>84</sup> *Ins. ibid.*, by the A. O. 1950.

with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

**77. Master of British ship compelled to convey and give subsistence to such seamen.**—(1) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.

(2) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (1), he shall for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

**78. Conditions under which master may claim payment.**—(1) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of local authority under this Act, such master shall be entitled to be paid by the <sup>55</sup>[Central Government] in respect of the subsistence and passage of such distressed seaman such sum per diem as the <sup>55</sup>[Central Government] may fix:

Provided that no such payment shall be made except on the production of the following documents (that is to say):—

- (a) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board; and
- (b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—
  - (i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship;
  - (ii) the number of men and boys forming the complement of his crew;
  - (iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board; and
  - (iv) every variation (if any) of such number.

(2) The declaration required by this section shall, in the case of a ship conveying <sup>56</sup>[citizens of India] to a port in <sup>56</sup>[India], be made before a shipping-master or such other officer as the <sup>55</sup>[Central Government] may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906 (6 Edw. 7, C. 48).

**79. Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.**—Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance home, <sup>57</sup>[or] in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which he belonged.

**80. Mode of recovering such wages and expenses.**—All such expenses and wages shall be recoverable with costs either from the master of such ship or from

<sup>55</sup> Subs. by the A. O. 1937.

<sup>56</sup> Subs. by the A. O. 1950.

<sup>57</sup> Subs. by Act 24 of 1934, s. 2 and Sch. I.

the person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the <sup>88</sup>[Central Government], or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him.

**81. Central Government may authorise persons to recover same.**—(1) The <sup>88</sup>[Central Government] may, by notification in the <sup>88</sup>[Official Gazette], authorise, either generally or specially, such persons as <sup>88</sup>[it] thinks fit to sue for any such expenses and wages and recover the same.

(2) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872 (I of 1872).

**82. Board of Trade may recover such amount from master or owner in certain cases.**—When any such expenses and wages are due to or in respect of a distressed seaman (not being <sup>89</sup>[a citizen of India]) belonging to a British ship registered in <sup>89</sup>[India] they may, instead of being recovered by a person authorised under section 81, be recovered by the Board of Trade in manner provided by section 42 of the Merchant Shipping Act, 1906, and when so recovered shall be paid by the said Board to the <sup>88</sup>[Central Government].

**83. What shall be evidence of distress and expenses incurred.**—In all proceedings under this Part, whether in <sup>89</sup>[India] or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved or any expenses were incurred, under this Part, to the effect that such seaman, was in distress and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

**84. Power of Central Government to make rules.**—The <sup>88</sup>[Central Government] may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

#### *Provisions, Health and Accommodation*

**85. Complaints as to provisions or water.**—<sup>90</sup>[(1) All British ships and all ships upon which seamen have been shipped in <sup>89</sup>[India] shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.]

(2) If <sup>90</sup>[any person making an inspection under section 91] finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

<sup>88</sup> Subs. by the A. O. 1937.

<sup>89</sup> Subs. by the A. O. 1950.

<sup>90</sup> Subs. by Act 9 of 1931, s. 7.

(4) <sup>91</sup>[The person making the inspection] shall enter a statement of the result of the <sup>91</sup>[inspection] in the official log-book, and shall, if he is not the shipping-master, and send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(5) <sup>91</sup>[If the inspection was made in pursuance of a request by members of the crew and the person making the inspection certifies in the statement of the result of the inspection that there was no reasonable ground for the request, every member of the crew who made the request] shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

**86. Allowance for short or bad provisions.**—(1) In either of the following cases:—

- (i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore); or
- (ii) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use:

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages:—

- (a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or a native seaman;
- (b) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman;
- (c) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

**87. Medicines to be provided and kept on board certain ships.**—(1) All foreign-going British ships and all home-trade ships of more than three hundred tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the <sup>92</sup>[Central Government] <sup>93</sup>\* \* \* and published in the <sup>92</sup>[Official Gazette].

<sup>91</sup> Subs. by Act 9 of 1931, s. 7.

<sup>92</sup> Subs. by the A. O. 1937.

<sup>93</sup> Certain words were omitted by Act 6 of 1928 s. 4 and Sch.



(2) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove, that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in <sup>94</sup>[India] and to which section 200 of the Merchant Shipping Act, 1894 (57 & 58 Vict. C. 60), applies.

**88. Weights and measures on board.**—The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

**89. Expenses of medical attendance in case of illness.**—(1) If the master of, or a seaman or apprentice belonging to, a ship registered in <sup>95</sup>[India] receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the <sup>96</sup>[Central Government].

**90. Accommodation for seamen.**—<sup>97</sup>(1) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have for each seaman or apprentice a space of not less than twelve superficial feet and not less than seventy-two cubic feet.]

(2) In every case the place shall be below a well caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(5) If any such place is not so kept free, the master shall for each offence be liable to a fine which may extend to one hundred rupees.

**<sup>98</sup>91. Inspection of provisions, water, medicines and appliances, weights and measures and accommodation.**—A shipping-master, deputy shipping-master,

<sup>94</sup> & <sup>95</sup> Subs. by the A. O. 1950.

<sup>96</sup> Subs. by the A. O. 1937.

<sup>97</sup> Subs. by Act 25 of 1933, s. 3.

<sup>98</sup> Subs. by Act 9 of 1931, s. 8.

or other officer duly appointed in this behalf by the "[Central Government], at any port—

- (a) in the case of any ship upon which seamen have been shipped at that port, may at any time, and
- (b) in the case of any British ship, may at any time, and, if the master or three or more of the crew so request, shall, enter on board the ship and inspect—
  - (i) the provisions and water,
  - (ii) the medicines and appliances,
  - (iii) the weights and measures,
  - (iv) the accommodation for seamen,

with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.]

#### *Facilities for making Complaints*

**92. Facilities for making complaints.**—(1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

- (a) if the ship is then at a place where there is a Magistrate, after such statement, and

(b) if the ship is not then at such place, after her first arrival at such a place, allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

#### *Protection of Seamen from Imposition*

**93. Assignment or sale of salvage invalid.**—Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

**94. No debt exceeding three rupees recoverable till end of voyage.**—A debt exceeding in amount three rupees incurred by any seaman after he has been engaged to serve shall not be recoverable until the service agreed for is concluded.

**95. Penalty for overcharges by lodging-house-keepers.**—If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

**96. Penalty for detaining seamen's effects.**—(1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(2) Any Magistrate imposing a fine under this section may direct the amount of such money or the value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

**97. Penalty for solicitations by lodging-house-keepers.**—If within twenty-four hours after the arrival of a ship at a port in <sup>100</sup>[India] a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

**98. Penalty for being on board ship without permission before seamen leave.**—Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in <sup>100</sup>[the service of the Government] or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

#### *Provisions as to Discipline*

**99. Misconduct endangering life or ship.**—If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

- (a) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb;

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

**100. Desertion and absence without leave.**—If a seaman lawfully engaged or an apprentice commits any of the following offences, he shall, notwithstanding anything in the Code of Criminal Procedure, 1898 (V of 1898), be liable to be tried in a summary manner and to be punished as follows:—

- (i) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in <sup>101</sup>[India], to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to <sup>101</sup>[India], and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks;

- (ii) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six day's pay or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

**101. Conveyance of deserter or imprisoned seaman on board ship.**—(1) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

**102. Power to Court to order offender to be taken on board ship.**—Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

**103. General offences against discipline.**—If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the Code of

Criminal Procedure, 1898 (V of 1898), be liable to be tried in a summary way and to be punished as follows, namely:—

- (i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two day's pay;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;
- (iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks;
- (vii) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

**104. Penalty for false statement as to last ship or name.**—(1) If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

(2) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid and shall, subject to reimbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

**105. Entry of offences in official log.**—If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew; and
- (ii) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or

have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and

- (iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and
- (iv) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

**106. Report of desertions and absences without leave.**—(1) Whenever any seaman or apprentice not shipped in <sup>102</sup>[India] deserts or otherwise absents himself in <sup>102</sup>[India] without leave from a British ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping-master or to such other officer as the <sup>103</sup>[Central Government] appoints in this behalf, unless in the meantime, the deserter or absentee returns.

(2) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

**107. Entries and certificates of desertion abroad.**—(1) In every case of desertion from a ship registered in <sup>102</sup>[India] whilst such ship is at any place out of <sup>102</sup>[India], the master shall produce the entry of the desertion in the official log-book to the person authorised by the Merchant Shipping Act, 1906 (6 Edw. 7, C. 48), to grant certificates for leaving seaman behind abroad; and that person shall thereupon make and certify a copy of the entry.

(2) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

**108. Facilities for proving desertion in proceeding for forfeiture of wages.**—(1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in <sup>104</sup>[India] and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

**109. Application of forfeitures.**—(1) Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursement shall be paid into the public treasury and carried to the account of <sup>105</sup>[the Central Government].

<sup>102</sup> & <sup>104</sup> Subs. by the A.O. 1950.

<sup>103</sup> & <sup>105</sup> Subs. by the A.O. 1937.

(2) For the purposes of such re-imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

**110. Decision of questions of forfeiture and deduction in suits for wages.—**Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

**111. Ascertainment of amount of forfeiture out of wages.—**(1) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

**112. Payment of fines imposed under agreement to shipping-master.—**(1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:—

- (i) if the offender is discharged at any port or place in <sup>106</sup>[India], and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master; and
- (ii) if before the final discharge of the crew in <sup>106</sup>[India], any such offender as aforesaid enters into any of His Majesty's ships <sup>107</sup>[or any ships belonging to the Government] or is discharged at any place not in <sup>106</sup>[India], and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the Consular Officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person, and on the return of the ship to <sup>106</sup>[India], the master or owner shall pay over such fine in the case of foreign-going ships to the shipping-master before whom the crew

<sup>106</sup> Subs. by the A. O. 1950.

<sup>107</sup> Ins., *ibid.*

is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

**113. Penalty for enticing to desert.**—If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

**114. Penalty for harbouring deserters.**—If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

**115. Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.**—(1) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

(2) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

**116. Procedure where seaman or apprentice not shipped in India is imprisoned on complaint of master or owner.**—(1) If any seaman or apprentice who is not shipped in <sup>108</sup>[India] is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

- (a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the <sup>109</sup>[Central Government] or of such officer as <sup>109</sup>[it] may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and
- (b) the <sup>110</sup>[Central Government] or such officer as <sup>110</sup>[it] may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the <sup>110</sup>[Central Government] or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—
  - (i) the wages due to such seaman or apprentice and his money and effects; and

<sup>108</sup> Subs. by the A.O. 1950.

<sup>109</sup> & <sup>110</sup> Subs. by the A. O. 1937.



(#) such sum as may, in the opinion of the <sup>111</sup>[Central Government] or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when so required by this section, shall be liable to a fine which may extend to five hundred rupees.

**117. Power to send on board seaman or apprentice not shipped in India who is under-going imprisonment.**—If any seaman or apprentice who is not shipped in <sup>112</sup>[India] is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

**118. On change of master documents to be handed over to successor.**—(1) If during the progress of a voyage the master of any ship registered in <sup>112</sup>[India] is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody, and shall in default be liable to a fine which may extend to one thousand rupees.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

#### *Leaving Seamen or Apprentices in <sup>112</sup>[India]*

**119. Discharge or leaving behind in India of seamen or apprentices not shipped in India.**—(1) No seaman or apprentice who was not shipped in India shall be discharged at any port in <sup>112</sup>[India] without the previous sanction in writing of such officer as the <sup>113</sup>[Central Government] appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

#### *Official Logs*

**120. Official logs to be kept and to be dated.**—(1) An official log shall be kept in every ship registered in <sup>112</sup>[India] except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the <sup>113</sup>[Central Government].

<sup>112</sup> Subs. by the A. O. 1950.

<sup>111</sup> & <sup>113</sup> Subs. by the A. O. 1937.

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(3) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(4) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

- (a) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any; and
- (b) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and
- (c) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(5) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

**121. Entries required in official log-book.**—The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely:—

- (i) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;
- (ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required;
- (iii) every offence for which punishment is inflicted on board and the punishment inflicted;
- (iv) a statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;
- (v) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any);
- (vi) every case of death happening on board and the cause thereof;
- (vii) every birth happening on board with the sex of the infant and the names of the parents;
- (viii) every marriage taking place on board with the names and ages of the parties;
- (ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (x) the wages due to any seaman who enters His Majesty's naval service.  
<sup>114</sup>[or the Indian Naval Service] during the voyage;

<sup>114</sup> Subs. by the A. O. 1950.

- (xi) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;
- (xii) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it.
- (xiii) every collision with any other ship and the circumstances under which the same occurred.
- <sup>115</sup>[(xiv) the times of closing and opening the hinged doors, portable plates, side scuttles, gangway cargo and coaling ports and other openings which are required by any rules made under this Act to be kept closed during navigation;
- (xv) a record of all drills and inspections required by any rules made under this Act with an explicit record of any defects disclosed; and, if boat-drill is not practised on board the ship in any week, the reasons why boat-drill was not practised in that week.]

**122. Offences in respect of official logs.**—(1) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

(2) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

**123. Delivery of official logs to shipping masters.**—(1) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in <sup>116</sup>[India] or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged.

(2) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and thirty-first day of December in every year transmit or deliver to some shipping-master in <sup>116</sup>[India] the official log-book for the preceding half-year.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

**124. Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.**—(1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in <sup>116</sup>[India], within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation.

<sup>115</sup> Ins. by Act 25 of 1933, s. 4.

<sup>116</sup> Subs. by the A. O. 1950.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

\* \* \* \* \*

#### PART VIII.—LEGAL PROCEEDINGS

**281. Jurisdiction of Magistrates.**—No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

**282. Place of trial of the offender.**—Any person committing any offence against this Act or any rule thereunder, may be tried for the offence in any place in which he may be found or which the <sup>117</sup>[Central Government] may, by notification in the <sup>117</sup>[Official Gazette], direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

**283. Depositions to be received in evidence when witnesses cannot be produced.**—Whenever, in the course of any legal proceeding under this Act instituted at <sup>118</sup>[any place in a <sup>119</sup>[State] <sup>120</sup>\* \* \* \*] before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in <sup>119</sup>[any other part of India or in any part of a commonwealth country or before any Indian or British Consular Officer], if elsewhere, shall be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or Consular Officer before whom it is made;
- (b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;
- (c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

**285. Levy of wages, etc., by distress of moveable property.**—When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of

<sup>117</sup> Subs. by the A.O. 1937.

<sup>118</sup> Subs. by the A.O. 1948.

<sup>119</sup> Subs. by the A.O. 1950.

<sup>120</sup> Certain words omitted, *ibid.*

the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

**286. Levy of wages, fines, etc., by distress of ship.**—Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

**287. Service of documents.**—Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the persons being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship where there is no master and the ship is in <sup>121</sup>[India], on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in <sup>121</sup>[India], or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

**288. Application of fines.**—A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

#### PART IX—SUPPLEMENTAL

**289. Powers to see Act is complied with.**—(1) Where a shipping master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

- (a) enter on board any British ship, and
- (b) muster and examine the crew.

(2) If any person obstructs any shipping-master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

<sup>122</sup>**289A. Power to restrict transfer of ships.**—(1) No person shall transfer or acquire any ship registered in any port of registry in India, or any share or interest therein, without the previous approval of the Central Government.

(2) If any person contravenes any of the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Any transaction effected in contravention of the provisions of sub-section (1) shall be void and unenforceable.

**289B. Power to restrict transfer of registry of ships.**—Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894 (57 & 58 Vict., C. 60), no application made, whether before or after the coming into operation of this section, for the transfer of the registry of a ship from a port of registry

<sup>121</sup> Subs. by the A.O. 1950.

<sup>122</sup> Ins. by Act 41 of 1947, s. 2.

in India to a port of registry outside India shall be granted except with the previous approval of the Central Government, and the Central Government may, if it considers necessary or expedient so to do for the purpose of conserving the strength of Indian registered merchant shipping, refuse to give its approval to any such transfer.

**289C. Power to exempt ships from provisions of this Act and the Merchant Shipping Acts.**—Notwithstanding anything contained in this Act or the Merchant Shipping Acts, the Central Government may, upon such conditions, if any, as it may think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, this Act or the Merchant Shipping Acts, or dispense with the observance of any such requirement, in the case of any ship if it is satisfied that that requirement has been substantially complied with or that compliance with the requirement is unnecessary in the circumstances of the case.]

\* \* \* \* \*

SCHEDULE I—(See section 9.)

TABLE A

*Fees to be Charged for Matters Transacted at Shipping Offices*

1. Engagement or discharge of crews:—

						Rs. a. p.
In ships under 100 tons	...	...	...	...	...	3 0 0
From 100 to 200 tons	...	...	...	...	...	7 0 0
From 200 to 300 tons	...	...	...	...	...	10 0 0
From 300 to 400 tons	...	...	...	...	...	12 8 0
From 400 to 500 tons	...	...	...	...	...	15 0 0
From 500 to 600 tons	...	...	...	...	...	17 8 0
From 600 to 700 tons	...	...	...	...	...	20 0 0
From 700 to 800 tons	...	...	...	...	...	22 8 0
From 800 to 900 tons	...	...	...	...	...	25 0 0
From 900 to 1000 tons	...	...	...	...	...	27 8 0
Above 1000 tons	...	...	...	...	...	30 0 0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

TABLE B

*Sums to be Deducted from Wages by way of Partial Repayment of Fees in Table A*

1. In respect of engagements and discharges of crews, upon each engagement and each discharge—

				Rs. a. p.
From wages of any mate, purser, engineer, surgeon, carpenter or steward	...	...	...	0 12 0
From wages of all others except apprentices	...	...	...	0 8 0

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge

... .. 0 8 0

**RULES PRESCRIBING THE CONDITIONS OF EMPLOYMENT OF YOUNG PERSONS AS TRIMMERS OR STOKERS IN COASTING SHIPS<sup>1</sup>**

In exercise of the powers conferred by clause (b) of sub-section (1) of section 37J of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government is pleased to make the following rules prescribing the conditions of employment of young persons as trimmers or stokers in coasting-ships, namely:—

1. No young person employed as a trimmer or stoker shall be required to perform duty at sea for a total period exceeding six hours per day of twenty-four hours. A period

<sup>1</sup> These Rules were published under Notification No. 80-M.II/31 dated the 5th December, 1931.

of duty shall not exceed three hours at a time and the intervals between periods of duty shall not be less than eight hours.

2. No young person employed as a trimmer or stoker shall be required to perform duties in port in the engine or boiler rooms, not being watchkeeping duties, for a longer period than seven hours per day excluding time off for meals. If the port duties include tending fires and ordinary watchkeeping duties, the hours of duty shall be as prescribed in Rule 1 for duty at sea.

3. A young person employed as a stoker shall not be required to tend more than two fires nor to clean and relay more than one fire during any one watch.

4. No young person shall be engaged as a stoker in a ship where the stoke-hold temperature measured at the stokehold bulkhead at a point remote from ventilator shafts is or exceeds 110 degrees Fahrenheit.

5. A young person employed as a trimmer shall not be required to take part in the cleaning and relaying of fires.

6. A young person shall not be engaged as a trimmer in a ship where the bunker temperature is or exceeds 110 degrees Fahrenheit.

#### AUTHORITIES FOR ISSUE OF CERTIFICATES OF PHYSICAL FITNESS OF YOUNG PERSONS<sup>1</sup>

In exercise of the powers conferred by clause (c) of sub-section (1) of section 37-J of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government is pleased to make the following rule prescribing the authorities whose certificates of physical fitness shall be accepted for the purposes of section 37-D of the said Act, namely:—

The certificate of physical fitness referred to in section 37-D of the Indian Merchant Shipping Act, 1923 (XXI of 1923), shall be granted by the Port Health Officer or by a doctor approved by the Port Health Officer at any port in the <sup>2</sup>[Province of Madras, Bombay or Bengal.]

#### FORM OF REGISTER OF YOUNG PERSONS<sup>3</sup>

In exercise of the powers conferred by clause (d) of sub-section (1) of section 37-J of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government is pleased to make the following rule prescribing the form of register of young persons to be maintained under section 37-E of the said Act in ships where there is no agreement with the crew, namely:—

The register of young persons to be kept by the master in the case of every ship registered in India and every foreign ship, where there is no agreement with the crew, shall be maintained in the following form, namely:—

#### FORM OF REGISTER PRESCRIBED UNDER SECTION 37-J (1) (d) OF THE INDIAN MERCHANT SHIPPING ACT, 1923

List of young persons under eighteen years of age employed as members of the crew of .....on a voyage from.....to.....

Name in full	Date of birth	Nationality stating birth place	Capacity	Date of joining	Date of discharge

Signed by.....Master, on the.....day of.....19 ..

NOTE.—Under the Indian Merchant Shipping Act, 1923, every master of a ship registered in India and every master of a foreign ship is required (under a penalty of Rs. 200 for failure) to keep in the Agreement a list of young persons over fourteen and under eighteen years of age, who are members of the crew, with particulars of the dates of their birth, and the dates on which they become or cease to become members of the crew. Where space is not provided in the Agreement, or where no Agreement or Official Log is kept, these particulars must be entered in the above Form which is obtainable from the Shipping Master at any Mercantile Marine Office in India.

<sup>1</sup> Published under Notification No. 80-M. II./31 dated the 8th August 1931.

<sup>2</sup> Substituted by Notification No. 260-M. II./37 dated the 23rd October 1937 for "Presidency of Madras, Bombay or Bengal or in the Province of Burma".

<sup>3</sup> Published under Notification No. 80-M.II/31 dated the 8th August 1931.

RATES OF PAYMENT FOR SUBSISTENCE OF DISTRESSED SEAMEN<sup>1</sup>

In exercise of the power conferred by sub-section (1) of section 78 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), and in supersession of the notification by the Government of India in the Department of Commerce and Industry, No. 10760-12 dated the 19th December, 1907, the Central Government hereby fixes the following rates of payment for the subsistence and passage of distressed seamen and apprentices who are sent on board a British ship under sub-section (2) of section 75 of the said Act, and are in excess of the number wanted to make the complement of the crew, namely:—

	For Steam vessels.			For Sailing vessels		
	Rs.	As.	Ps.	Rs.	As.	Ps.
1. For the conveyance of certificated officers and apprentices, when diet and accommodation superior to that usually afforded to distressed seamen are furnished; otherwise the same as at No. 2. ... ..	6	11	0	4	7	0
2. For the conveyance of other members of the crew when afforded the same diet as European seamen. ... ..	5	0	0	3	5	4
3. For the conveyance of other members of the crew when subsisted on Indian or similar diet. ... ..	2	11	0	1	12	8

INDIAN MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES, 1951

Arrangement of Paragraphs

1. Title.
2. Scope
3. Arrangements to be made by the Central Government.
4. Standards of physical fitness.
5. Application for examination.
6. Registration.
7. Seamen to appear with Discharge Certificates.
8. Nature of Medical Examination.
9. Record of medical examination conducted.
10. Certificate of physical fitness.
11. Validity.
12. Entry in the Continuous Discharge Certificate.
13. Appeal.
14. Exemption.
- 14A. Temporary Provision in the case of Overaged Seamen.
15. Fees.
16. Duplicate or re-issue of certificate.

INDIAN MERCHANT SHIPPING (MEDICAL EXAMINATION) RULES, 1951<sup>2</sup>

In exercise of the powers conferred by sub-section (3) of section 26A of the Indian Merchant Shipping Act, 1923 (XXI of 1923) the Central Government hereby makes the following rules, namely:

1. Title.—(1) These Rules shall be called the Indian Merchant Shipping (Medical Examination) Rules, 1951.

(2) They shall come into force at once.

<sup>1</sup> Published under the Ministry of Transport (Transport Wing) Merchant Shipping Notification No. S. R. O. 3098 dated the 20th September, 1954, in the Gazette of India, 1954, Part II—Sec. 3, page 2312.

<sup>2</sup> These Rules were published under the Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 1077 dated the 16th July, 1951, in the Gazette of India Extraordinary, 1951, Part II—Section 3, page 883.



**2. Scope.**—The provisions of sub-section (1) of section 26A of the Indian Merchant Shipping Act, 1923, shall not apply to—

- (a) seamen while serving on home trade ships; and
- (b) the categories of seamen specified in column 1 of the Table below if the conditions specified in the corresponding entry in column 2 are satisfied:

TABLE

1. Categories of Seamen	2. Conditions.
Deck Officers and Engineers; Radio Officers; Pursers and clerical staff; Stewards; Medical Officers and their staff; Apprentices and cadets; Hair Dressers; Stewardesses on passenger ships; Electricians; Chinese Carpenters, Fitters, etc.; Gunners, Wiremen.	If they produce evidence to the satisfaction of the Shipping Master that they are in good health and fit to perform their duties satisfactorily.
Hotel staff including Bazarmen.	If they produce evidence to the satisfaction of the Shipping Master of their being in good health.

**3. Arrangements to be made by the Central Govt.**—(1) The Central Government may appoint as many medical officers (hereinafter referred to as the "Medical Authority") as may be considered necessary at each of the ports of Calcutta, Bombay or any other port for the medical examination of seamen from time to time. The certificates to be issued shall be in the form given in Annexure B to the Rules.

(2) The Medical Authority examining a seaman shall be the prescribed authority for the purposes of sub-section (1) of section 26A of the Indian Merchant Shipping Act.

**4. Standards of physical fitness.**—The standard of physical fitness of different classes of seamen shall be as set out in Annexure A of these rules (hereinafter referred to as the "prescribed standards").

**5. Application for examination.**—Every seaman in possession of a continuous discharge certificate issued by a Shipping Office in India which is valid at an Indian port, and desiring employment at sea shall apply to the Shipping Master at one of the ports where arrangements exist for the medical examination.

**6. Registration.**—On receipt of an application for medical examination of a seaman, the Shipping Master, after satisfying himself that the seaman possesses a valid continuous discharge certificate, shall cause the particulars of the seaman to be posted in a register and shall fix a date, time and place for such medical examination and inform the applicant accordingly. He shall also transmit to the Medical Authority at the port a request for the medical examination of such seaman giving his name and necessary particulars.

**7. Seamen to appear with Discharge Certificates.**—(a) Every seaman thus notified shall present himself and produce his continuous discharge certificate at the notified time and place for medical examination and at such subsequent dates and times when he may be required for this purpose.

(b) If a seaman fails to appear for the medical examination, without any valid grounds, in response to three consecutive calls from the Shipping Master, the latter may, after recording his reasons in writing, debar the seaman from appearing for the medical examination for a period not exceeding six months.

**8. Nature of Medical Examination.**—Every seaman appearing for medical examination shall be subjected by the Medical Authority to such tests as may be considered necessary for determining his physical fitness in accordance with the prescribed standards.

**9. Record of medical examination conducted.**—The Medical Authority shall maintain a full record of the medical examinations conducted by him with copies of certificates of

physical fitness issued to seamen and shall render weekly returns to the Shipping Master showing the result of the medical examination in respect of every seaman examined during that week.

**10. Certificate of physical fitness.**—(a) On completion of medical examination the Medical Authority shall issue to every seaman satisfying the prescribed standards a certificate of physical fitness in the form set out in Annexure B to these rules.

(b) In the event of a seaman failing to satisfy the prescribed standards due to any temporary defect which, in the opinion of the Medical Authority, is likely to be cured after treatment, the Medical Authority shall issue to the seaman a certificate with the remarks "temporarily unfit" indicating generally, where possible, the reasons for such unfitness and with the remark that the seaman should come for re-examination after the cause of his temporary unfitness is removed.

(c) A seaman not satisfying the prescribed standards of physical fitness and found to be suffering from a physical defect which, in the opinion of the Medical Authority examining him, renders him permanently unfit for sea service, shall be given a certificate of "permanent unfitness".

(d) The Medical Authority may, having regard to the nature of the temporary defect or disease, issue a certificate of fitness valid for six months or for the duration of one round voyage whichever is greater.

<sup>2</sup>[**11. Validity.**—(a) The certificates of physical fitness issued by the Medical Authority shall be valid for a period of five years from the date of issue, provided that all certificates issued by the Medical Authority and in force immediately before the 24th September, 1955 shall be deemed to be valid for a period of five years from the date of issue.]

(b) If the period of validity of a certificate expires in the course of a voyage the certificate shall continue in force until the end of that voyage.

**12. Entry in the Continuous Discharge Certificate.**—The Shipping Master shall maintain a register showing the names of all seamen who have been medically examined along with the result of that medical examination and shall enter in the continuous discharge certificates of seamen medically examined the roster number of their medical examination.

**13. Appeal.**—(a) The Central Government shall set up an authority to be known as "The Medical Appeal Board for Seaman" (hereinafter to be called the "Appeal Board") consisting of at least two doctors not connected with any shipping or with any organisation of shipowners or seafarers, to consider appeals of seamen who fail to get certificates of physical fitness for sea service at each of the ports where arrangements for medical examination of seamen exist.

(b) A seaman may submit an appeal for a review of his case to the Appeal Board through the Shipping Master of the port at which he was medically examined.

(c) On preferring an appeal the seaman shall send along with his application a fee of Rs. 5.

(d) On receipt of the appeal accompanied by the fee the Shipping Master shall refer it to the Appeal Board and thereafter inform the seaman of the time and place of his examination by the Board.

(e) The decision of the Appeal Board shall be final, except in respect of a seaman who—

(i) has put in five or more years of active service;

(ii) has produced a certificate from one of the Government Medical Specialists not below the rank of a Civil Surgeon testifying that the seaman has been cured of the disabilities for which he was previously declared unfit by the Appeal Board;

(iii) has paid a fee of ten rupees; and

(iv) has been recommended by the Director-General of Shipping;

Such a seaman may, at the discretion of the Director-General of Health Services, be given a second and final chance to appear before the Appeal Board.

**14. Exemption.**—Notwithstanding anything contained in these rules the Shipping Master may allow a seaman not in possession of a certificate of physical fitness to be engaged on board any ship for one voyage if, owing to shortage of time or other special reasons to be recorded in writing, he is satisfied that it is not possible for the seaman to appear for the medical examination. In such cases he shall cause to be endorsed on the continuous discharge certificate that the seaman has been exempted from the medical examination for

<sup>2</sup> Substituted by the Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 2133 dated the 24th September, 1955.

one voyage only. No seaman may be exempted for a second voyage under the provisions of this rule, under any circumstances.

**14A. Temporary provision in case of overaged seamen.**—Notwithstanding the provisions of clause (2) of Annexure "A" seamen who are over 60 years of age but not over 65 years of age and are considered to be specially competent by the Shipping Master may be engaged at any time before the <sup>3</sup>[1st September, 1956] for one or more voyages provided they are certified as physically fit by the Medical Authority.

**15. Fees.**—(1). The cost of the arrangements made by the Government for the medical examination of seamen may be recovered by the levy of a fee on all shipping companies engaging (i) seamen in possession of certificates of physical fitness issued under these rules and (ii) seamen exempted in accordance with the provisions of these rules.

(2) The fee shall be Re. 1 per seaman engaged by a shipping company and shall be recovered by the Shipping Master at the time of each engagement of the seamen.

(3) The fee so realized shall be credited to Government account by the Shipping Master.

**16. Duplicate or re-issue of a certificate.**—A fee of Rs. 2 shall be charged from a seaman for the issue of a duplicate certificate of physical fitness when the original is torn or lost through his own fault.

#### ANNEXURE "A"—(Vide Rule 5)

##### *Medical Standards of Fitness*

(1) The candidate should be free from evidence of any contagious or infectious disease. He should not be suffering from any disease which is likely to be aggravated by sea service or is likely to render him unfit for sea service or to endanger the health of the public. He should also be free from evidence of tuberculosis in any form. Physique in each case should be judged with due regard to the nature of the duties to be performed.

(2) The maximum age limit shall be 60 years.

<sup>4</sup>[(3) **Eyes—Standards of Vision.**—Visual acuity for Engine Room and Saloon Ratings, Bhandaries, Topasses, Barbers and Carpenters should be 6/12 in one eye and 6/24 in the other eye with or without glasses or 6/18 in each eye with or without glasses.]

All Deck Ratings excepting Winchmen, Bhandaries, Cassabs, Topasses, Barbers, Carpenters, Serangs and Tindals must have normal colour vision.

In the case of the following categories of seamen, visual acuity should be as indicated below:—

Deck serangs	...	...	...	} 6/9 in each eye with or without glasses
Quartermasters	...	...	...	
Tindals	...	...	...	
Cassabs	...	...	...	

The other categories of Deck Crew must have 6/9 in each eye without glasses.

New entrants with vision in one eye only should be rejected.

(3A) Notwithstanding the provisions of clause (3) visual acuity for candidates who had gone to sea as seamen before 1st April, 1950 shall be not less than the following, viz.:

Rt. eye 6/24	}	or	Better eye 6/12
Lt. eye 6/24			Worse eye 6/36

(3B) Notwithstanding the provisions contained in clause (3) or clause (3A) seamen who had gone to sea as seamen before the 1st day of April, 1950, and who possess vision in one eye only, may be declared fit, if otherwise found fit to perform their duties provided that the visual acuity in the working eye is not less than 6/12 with or without glasses.

(4) **Ears.**—The hearing must be good and there should be no sign of suppurative disease.

(5) **The Skin.**—There should be no evidence of acute or chronic skin disease or chronic ulceration.

(6) **The Alimentary System.**—1. In the case of Serangs and Tindals speech should be without impediment.

2. The candidate should have sufficient number of natural and/or artificial teeth for mastication.

<sup>3</sup> Substituted by the Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 2268 dated the 7th October, 1955.

<sup>4</sup> Inserted by Notification No. 3—MS (11)/54 dated the 1st December, 1954.

3. Spleen enlargement should not exceed two fingers below costal margin and there should be no evidence of tenderness.
4. The liver may be slightly palpable but with no evidence of tenderness.
5. There should be no evidence of gross oral sepsis.
6. Candidates should not be suffering from diabetes. All cases of glycosuria should be fully investigated.

7. Candidates suffering from internal haemorrhoids should be temporarily rejected.

(7) **The Cardio-Vascular System.**—1. The Blood Pressure should be as shown below:—

Systolic—in principle 100+age; readings in excess without any evidence of kidney disease may be accepted. Maximum diastolic—100 mm. of Hg. Blood Pressure + Systolic—Excess allowance over 100+age up to 35 years Maximum—150 mm. of Hg. (to be reviewed after 6 months). Above 35 years maximum—170 mm. of Hg. (to be reviewed after 6 months).

2. There should be no sign of gross arteriosclerosis.
3. There should be no evidence of enlargement of heart or chronic heart disease.
4. There should be no evidence of chronic vulvular disease of the heart.
5. Candidates suffering from varicose veins in a marked degree should be temporarily rejected.
6. Cases of Arrhythmias—except sinus arrhythmia—should be investigated, and the candidates should be temporarily rejected.

(8) **The Respiratory System.**—The candidates should be free from any bronchial or laryngeal disease or deformity of chest. Lungs should be sound.

(9) **The Genito-Urinary System.**—1. There should be no evidence of kidney disease. Cases of albuminuria should be rejected temporarily pending full investigations.

2. Candidates suffering from hydrocele with longitudinal axis in excess of 3" should be temporarily rejected.

(10) **The Skeletal System.**—1. The function of all limbs should be within normal limits.

2. There should be no evidence of serious deformity of the spinal column.

(11) **The Nervous System.**—1. There should be no evidence of paresis or paralysis. However candidates suffering from mild paresis of the lower root of the facial nerve may be accepted.

2. There should be no evidence of any specific disease.
3. There should be no evidence of gross atrophy of muscles.

(12) **The Glandular System.**—There should be no evidence of tuberculous or specific disease of the glands.

(13) **Venereal Diseases.**—There should be no evidence of infectious venereal disease.

(14) **Special Standards for certain Ratings.**—The Medical Authority in consultation with the Shipping Master is authorised to relax the enforcement of the above standards of fitness in cases of seamen who (i) have a minimum of eight previous voyages to their credit and have earned good reports on their work, (ii) are physically fit to perform their assigned duties on board satisfactorily and are constitutionally fit but may have some physical defects e.g., loss of 3 fingers or loss of thumb, etc., if such defects are not likely to interfere with their working efficiency.

#### ANNEXURE "B"

#### GOVERNMENT OF INDIA—MINISTRY OF TRANSPORT

#### Certificate of Physical Fitness

(Vide Rule 3 of the Indian Merchant Shipping Medical Examination Rules, 1951)

Name: \_\_\_\_\_ Father's Name: \_\_\_\_\_  
 Age: \_\_\_\_\_ Race or Caste: \_\_\_\_\_  
 Address: (Local) \_\_\_\_\_  
 (Permanent) \_\_\_\_\_

C.D.C. No. \_\_\_\_\_ Medical Roster No. \_\_\_\_\_  
 Identification Marks: \_\_\_\_\_

- 1.
- 2.
- 3.

Result of the Medical Examination.

Signature or thumb impression of Seaman.

Official Date:  
 Stamp. Place:

Signature of the Medical Officer.

# **INDIAN MERCHANT SHIPPING (SEAMEN'S EMPLOYMENT OFFICE, BOMBAY) RULES, 1954**

## **Arrangement of Paragraphs**

**PART I—GENERAL.**

**PART II—SEAMEN'S EMPLOYMENT BOARD.**

**PART III—REGISTRATION.**

**PART IV—ROSTERS.**

**PART V—SUPPLY OF SEAMEN.**

**PART VI—MISCELLANEOUS.**

**PART VII—TEMPORARY AND TRANSITIONAL PROVISIONS.**

# **INDIAN MERCHANT SHIPPING (SEAMEN'S EMPLOYMENT OFFICE, BOMBAY) RULES, 1954<sup>1</sup>**

In exercise of the powers conferred by sub-section (5) of section 25A of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government makes the following rules, namely:—

## **PART I—GENERAL**

1. (i) These rules may be called the Indian Merchant Shipping (Seamen's Employment Office, Bombay) Rules, 1954.

(ii) They shall come into force with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In these rules, unless there is anything repugnant in the subject or context—

(i) 'Appellate Authority' means such person or body of persons as may be appointed in this behalf by the Central Government;

(ii) 'Board' means the Seamen's Employment Board set up under rule 5;

(iii) 'Company Roster' means the Roster of seamen prescribed in rule 21;

(iv) 'Employment Office' means the Seamen's Employment Office, Bombay, established in accordance with the provisions of section 25A of the Indian Merchant Shipping Act.

(v) 'General Roster' means the Roster of Seamen prescribed in rule 18;

(vi) 'Government' means the Central Government;

(vii) 'Medical Authority' means Medical Officer or Officers appointed under rules framed under section 26A of the Indian Merchant Shipping Act, for the medical examination of seamen;

(viii) 'Prescribed' means prescribed by the Director-General of Shipping;

(ix) 'registered' means registered at the Employment Office in accordance with the provisions of these rules;

(x) 'roster' means either the General Roster prescribed in rule 18 or the Company Roster prescribed in rule 21 as the case may be;

(xi) 'shipowner' includes his agent or representative;

(xii) 'the Director' means the Director of the Employment Office;

(xiii) 'the Register' means the Register of Seamen provided for in rule 11.

3. Any terms not specifically defined in these rules, shall, unless there is anything repugnant in the subject or context, have the same meaning as assigned to them under the Indian Merchant Shipping Act.

4. (i) The Central Government shall appoint a Director and, if necessary, one or more Deputy and Assistant Directors, for the Employment Office;

(ii) Subject to the general or specific orders of the Director, a Deputy Director or an Assistant Director may perform any functions of the Director and any functions so performed shall be deemed to have been performed by the Director;

<sup>1</sup> These Rules were published under the Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 1611 dated the 15th May, 1954 in the Gazette of India Extraordinary, 1954, Part II—Section 3, page 829.

(iii) Notwithstanding anything contained in sub-rules (i) and (ii) above, Government may appoint any person to perform such functions in relation to the Employment Office as may be assigned to him, and when such person is so appointed, reference in the rules to the Director shall be construed as reference to such person in respect of the functions assigned to the latter.

#### PART II—SEAMEN'S EMPLOYMENT BOARD

5. (i) The Central Government shall, as soon as may be after the publication of these rules, appoint, by notification in the Official Gazette, a Seamen's Employment Board<sup>2</sup>;

(ii) The Board shall consist of such number of members representing the Government, shipowners and seamen as the Central Government may, from time to time, determine;

(iii) The members of the Board representing the Government, shipowners and seamen shall, as far as possible, be equal in number and shall be appointed by the Central Government;

Provided that the members representing the shipowners and seamen shall be appointed after consultation with the interests concerned;

(iv) The Chairman of the Board shall be appointed by the Central Government from among the members representing the Government on the Board;

(v) The functions of the Board, in addition to those specified in these rules, the terms of office of members, the manner of filling vacancies among members and the procedure for the conduct of the business, of the Board shall be such as may be determined from time to time by the Central Government;

(vi) Members representing shipowners and seamen shall be entitled to receive such fees for attending the meetings of the Board and of its sub-committees, if any, as may from time to time be fixed by the Central Government.

(vii) No act done or proceeding taken by the Board under these rules shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

#### PART III—REGISTRATION

6. No person shall be eligible for engagement as a seaman at Bombay unless he is duly registered at the Employment Office and is in possession of a Registration Book issued under rule 14.

7. No person shall be eligible for registration at the Employment Office unless he—

- (i) (a) holds a valid Continuous Discharge Certificate issued from Bombay; or
- (b) holds a valid Continuous Discharge Certificate issued from any other port in India and has been customarily recruited from Bombay;
- (ii) holds a valid certificate of physical fitness issued by a Medical Authority; and
- (iii) is within such age limits as may be prescribed from time to time;

Provided that in exceptional circumstances and for reasons to be recorded in writing the Director may permit the registration of any person not satisfying any of the above requirements.

8. Applications for registration shall be made in such form and shall be accompanied by such documents as may be prescribed by the Director.

9. An application for registration shall be made personally by the applicant and shall be presented to such official and between such hours of the day as the Director may from time to time appoint in this behalf.

10. All applications for registration duly submitted shall be scrutinised and the names of such applicants as satisfy the requirements of rule 7 shall be approved for registration by the Director; Provided that, for sufficient reasons recorded in writing, the Director may in his discretion reject any such application.

11. The Director shall cause the particulars of all persons approved for registration to be entered in a Register of Seamen.

<sup>2</sup> A Seamen's Employment Board at the port of Bombay has been appointed by the Central Government with effect from the 7th June, 1954 under Ministry of Transport (Transport Wing) Merchant Shipping Notification No. S.R.O. 1862 dated the 7th June, 1954 published in the Gazette of India Extraordinary, 1954, Part II—Section 3, p. 939. The terms of office of the members of the Board shall be two years with effect from 7-6-54.

12. The Register of Seamen shall be maintained in such form as the Director may prescribe.

13. The Director shall allot to each seaman accepted for registration, a distinct Registration Number which shall be prominently marked on all official documents issued to the seaman.

14. A Registration Book prepared in such form as the Director may prescribe shall be issued to every seaman registered at the Employment Office.

15. Once the name of a person has been registered at the Employment Office, it shall continue to be so registered until it is cancelled or removed from the Register in accordance with the provisions of rule 48 and 49.

16. If upon scrutiny under rule 10, the Director rejects an application, he shall inform the applicant in writing, of the reasons for such rejection.

17. Any person whose application is rejected may, within 30 days of his being informed of such rejection, appeal to the Appellate Authority whose decision in the matter shall be final.

#### PART IV—ROSTERS

18. The Director shall cause a General Roster of Seamen to be maintained in such form as he may prescribe and in accordance with the rules hereinafter contained.

19. The names of only such seamen shall be entered on the Roster as are registered at the Employment Office.

20. The General Roster shall have separate sections for such categories of seamen as may be prescribed after consultation with the Board.

21. On application by a shipping company or a group of shipping companies, the Director may maintain separate rosters for all or any of the categories in respect of the seamen customarily employed by that shipping company or group of shipping companies. Such rosters shall be called "Company Rosters".

22. The name of a seaman may be entered in the General Roster or in a Company Roster but not in both provided that no name shall be entered in a Company Roster unless the Company and the seaman concerned have consented in writing to such name being so entered.

23. Once a seaman is accepted for a Company Roster, his name shall continue to be so entered until a change in this behalf is permitted by the Director on the request either of the seaman or the shipping company. The Director shall not, save in exceptional circumstances, permit such change oftener than once in any year.

24. The Shipping Master of the port shall give prior intimation of the time of all discharges of seamen to the Director.

25. For the purpose of facilitating registration or compilation of Rosters, the Director may be present at the time of any discharge.

26. A shipowner who discharges crews at Bombay or discharges, at any other place, crews which had been recruited through the Employment Office, shall furnish the name and other particulars of such seamen to the Director in such form as he may prescribe.

27. Names shall be entered in the Rosters in accordance with such procedure as may be prescribed after consultation with the Board. A name thus entered shall continue to be borne on the Roster until it is cancelled under rule 39 or rule 50(i).

#### PART V—SUPPLY OF SEAMEN

28. All shipowners seeking to engage seamen at Bombay shall furnish to the Director indents for the various categories of seamen in respect of specific ships as soon as such requirements become known and, in any case, not less than fifteen days in advance of the date when the seamen are actually required. In urgent cases, the Director may, in relaxation of the preceding requirement, accept such indents from the shipowners at shorter notice.

29. On receipt of indents from shipowners, the Director shall arrange to call up the requisite number of seamen from the appropriate roster in accordance with such procedure as may be prescribed after consultation with the Board.

30. Seamen who report to the Employment Office on or before the due date in response to the call under rule 29 shall be eligible for employment in the order in which their names stand in the relevant rosters.

31. Seamen who report to the Employment Office after the due date shall be eligible for employment in such order as may be prescribed after consultation with the Board.

32. Seamen who are eligible for employment shall be issued Muster Cards indicating the order of their eligibility for employment, provided that—

- (i) their certificate of physical fitness is valid; and
- (ii) they possess requisite health certificate for international travel.

33. Seamen who are issued Muster Cards may be required by the Director to be present at the Employment Office during such hours as the Director may notify.

34. The Director shall offer to shipowners the services of the seamen of each category as are eligible and available for employment on the principle of rotation.

35. (i) A shipowner shall as a rule engage seamen for employment in the order in which they are offered provided that for reasons stated to the satisfaction of the Director—

- (a) the shipowner may reject any seaman so offered; and
- (b) any seaman may refuse engagement on any ship for which he is proposed or selected.

(ii) The Director-General of Shipping may, after consulting the Board, lay down guiding principles for enabling the Director to determine whether the reasons advanced for rejecting a seaman or a ship are satisfactory.

36. When requisite eligible seamen are not available for employment, the Director may, notwithstanding anything contained in these rules, offer to a shipowner the services of any persons who are available for employment, provided that the shipowner shall be free to reject any of the persons so offered.

37. When a shipowner requires a substitute in the place of a seaman who was previously recruited through the Employment Office and whose services are within 24 hours before the ship is due to sail, lost by death, desertion or other unforeseen cause, the recruitment shall, where practicable be made through the Employment Office but when not practicable the shipowner may recruit a person of his choice but he shall as soon as possible furnish to the Director of the Employment Office full particulars of the substitute so recruited.

38. If at any time the Director-General of Shipping finds that the available volume of employment is inequitably distributed between Company Rosters and General Roster or Company Rosters *inter se*, he shall, after consulting the Board, take such action as may be necessary to bring about equitable distribution.

39. When a seaman has been selected and engaged his name in the roster shall stand cancelled.

40. Notwithstanding anything contained in these rules, the Director may permit shipowners to re-engage such seamen as are discharged before the completion of such period of service as the Director-General of Shipping may from time to time prescribe after consulting the Board.

41. The cases of all seamen who fail to get selected on three successive occasions when their services are offered to the shipowners shall from time to time be reviewed by the Director in accordance with such principles and procedure as may be prescribed after consulting the Board.

#### PART VI—MISCELLANEOUS

42. Seamen shall be eligible for promotion from one category to another on the basis of such principles as may be laid down by the Director-General of Shipping after consultation with the Board. All promotions shall be sanctioned by the Director on the basis of principles thus laid down.

43. Promotions during voyage may be sanctioned by the shipowners, but such promotions shall be temporary and shall not entitle the seamen to be put on the roster of the categories to which they may have been thus temporarily promoted unless the Director sanctions the promotions permanently in accordance with the provisions of rule 42.

44. In the event of a Registration Book being torn, mutilated or lost a duplicate may be issued to the seaman concerned on payment of a fee of Rs. 2/- only.

<sup>3</sup>[45. Notwithstanding anything contained in these rules—

- (a) all persons employed by shipowners on a permanent basis and in respect of whom one or more declarations to this effect are filed by the shipowners concerned at the Employment Office, and

<sup>3</sup> Substituted by Notification No. S.R.O. 3372 dated the 30th October, 1954.



- (b) all persons employed as clerks, wireless operators, musicians or vishiwallas or in any other capacity specified in an order issued in this behalf by the Director, shall for the purpose of sub-section (3) of Section 25A of the Indian Merchant Shipping Act, 1923, be deemed to have been engaged through the Employment Office, and nothing in these rules shall apply to the employment of such persons.]

46. The Director shall exercise his powers under these rules subject to the supervision, direction and control of the Director-General of Shipping or of such other officer as the Central Government may appoint in this behalf.

47. For the purpose of preventing seamen from being taken on board any ship in contravention of the provisions of these rules, the Director, Deputy Director or Assistant Director of the Employment Office or any other person duly authorised by the Central Government in this behalf may enter at any time on board any such ship upon which he has reason to believe that seamen from the port where the Employment Office is in existence have been shipped, and may muster and examine the several seamen employed therein.

48. (i) The Director may cancel, under advice to the shipping company in the event of the man being on the Company Roster, the registration of a seaman permanently or he may suspend the seaman's registration for any specified period of time when the Shipping Master reports that a seaman has been adversely reported upon by the shipowner in respect of character, discipline or ability, or that he has been found guilty of any of the following:

- (a) offences such as smuggling or theft;
- (b) desertion;
- (c) misbehaviour during the period of engagement.

(ii) The Director may also cancel the registration of a seaman permanently or he may suspend the seaman's registration for any specified period of time—

- (a) on his being found guilty of misbehaviour within the premises of the Employment Office; or
- (b) on his being found guilty of using or attempting to use a false document or making false declaration for getting his name registered at the Employment Office or for obtaining employment through the Employment Office.  
(Explanation: Any person found in possession of a false document within the premises of the Employment Office shall be deemed to have attempted to obtain employment by using the false document.)

49. The Director shall cancel the registration of a seaman—

- (i) on his attaining such age as the Director-General of Shipping may from time to time, after consultation with the Board, specify for the retirement of persons from the seafaring profession;
- (ii) on his being declared permanently unfit for the seafaring profession by a Medical Authority;
- (iii) on his giving or offering or attempting to give or offer directly or indirectly any illegal gratification to any official of the Employment Office or to any other person.

50. (i) The name of any seaman whose registration is cancelled or suspended shall be removed from the roster in which it may have been entered earlier.

(ii) The name of a seaman whose registration is suspended only for a specified period of time may be re-entered in the roster at the bottom, on the date of the expiry of the period of suspension.

51. A seaman whose registration is cancelled or suspended by an order of the Director, may, within 30 days of his being informed of such order, appeal to the Appellate Authority whose decision shall be final.

#### PART VII—TEMPORARY AND TRANSITIONAL PROVISIONS

52. Any seaman on Articles at the time when these rules come into force shall upon discharge, if he is desirous of further recruitment as seaman at Bombay, apply to the Director for registration at the Employment Office.

53. Any seaman off Articles at the time when these rules come into force if he is desirous of recruitment as seaman at Bombay shall apply for registration at the Employment Office.

54. Notwithstanding anything to the contrary contained in these rules, names of seamen who apply for registration under rule 52 shall be entered in the roster in accordance with such procedure as may be prescribed after consultation with the Board.

55. Notwithstanding anything contained to the contrary in these rules, the Director may in respect of seamen off Article when these rules come into force and who are accepted for registration maintain separate *ad hoc* rosters in accordance with such procedure as may be prescribed after consultation with the Board.

56. Notwithstanding anything to the contrary contained in Parts III, IV and V of these rules, the Director-General of Shipping may at the inception of the Employment Office and until such time thereafter, \* [not exceeding twelve months] as he may consider necessary, prescribe after consultation with the Board such procedure for the registration and supply of seamen as he may deem appropriate.

57. Where in these rules the Director-General of Shipping is required to act after consultation with the Board, he may, until the establishment of the Board, act in his discretion provided that any action so taken shall, as soon as may be after the establishment of the Board, be brought to the notice of the Board, and the Director-General may, after ascertaining the views of the Board, take such further action as he may deem appropriate.

## INDIAN MERCHANT SHIPPING (SEAMEN'S EMPLOYMENT OFFICE, CALCUTTA) RULES, 1954

### Arrangement of Paragraphs

PART I.—GENERAL.

PART II.—SEAMEN'S EMPLOYMENT BOARD.

PART III.—REGISTRATION.

PART IV.—ROSTERS.

PART V.—SUPPLY OF SEAMEN.

PART VI.—MISCELLANEOUS.

PART VII.—TEMPORARY AND TRANSITIONAL PROVISIONS.

## INDIAN MERCHANT SHIPPING (SEAMEN'S EMPLOYMENT OFFICE, CALCUTTA) RULES, 1954<sup>1</sup>

In exercise of the powers conferred by sub-section (5) of section 25A of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government makes the following rules, namely:—

### PART I.—GENERAL

1. (i) These rules may be called the Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954.

(ii) They shall come into force with effect from such date<sup>2</sup> as the Central Government may, by notification in the Official Gazette appoint.

2. In these rules, unless the context otherwise requires—

(i) 'Act' means the Indian Merchant Shipping Act, 1923 (XXI of 1923);

(ii) 'Appellate Authority' means such person or body of persons as may be appointed in this behalf by the Central Government;

(iii) 'Board' means the Seamen's Employment Board set up under rule 5;

(iv) 'Company Roster' means the Roster of Seamen prescribed in rule 22;

(v) 'Employment Office' means the Seamen's Employment Office, Calcutta, established in accordance with the provisions of Section 25A of the Indian Merchant Shipping Act;

(vi) 'General Roster' means the Roster of Seamen prescribed in rule 19;

<sup>4</sup> Substituted by the Ministry of Transport (Transport Wing) Merchant Shipping Notification No. S.R.O. 23 dated the 21st December, 1954 in place of "not exceeding six months".

<sup>1</sup> These Rules were published under the Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 3268 dated the 19th October, 1954 in the Gazette of India, 1954, Part II—Sec. 3, p. 978. A Seamen's Employment Office at the port of Calcutta has been established with effect from the 1st of March, 1955.

<sup>2</sup> 1st March, 1955, vide Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 476 dated the 1st March, 1955, published in the Gazette of India Extraordinary, 1955, Part II—Section 3, page 297.

- (vi) 'Medical Authority' means Medical Officer or officers appointed under rules framed under section 26A for the medical examination of seamen;
- (viii) 'prescribed' means prescribed by the Director-General of Shipping;
- (ix) 'registered' means registered at the Employment Office in accordance with the provisions of these rules;
- (x) 'roster' means either the General Roster prescribed in rule 19 or the Company Roster prescribed in rule 22 as the case may be;
- (xi) 'Section' means a section of the Act;
- (xii) 'Shipowner' includes his agent or representative;
- (xiii) 'the Director' means the Director of the Employment Office;
- (xiv) 'the Register' means the Register of Seamen provided for in rule 11.

3. All words and expressions not defined in these rules but defined in the Act, shall, unless the context otherwise requires, have the same meanings as respectively assigned to them under the Act.

4. (1) The Central Government shall appoint a Director and, if necessary, one or more Deputy and Assistant Directors, for the Employment Office.

(2) Subject to the general or specific orders of the Director, a Deputy Director or an Assistant Director may perform any functions of the Director and any functions so performed shall be deemed to have been performed by the Director.

(3) Notwithstanding anything contained in sub-rules (1) and (2), the Central Government may appoint any person to perform such functions in relation to the Employment Office as may be assigned to him, and when such person is so appointed, any reference in these rules to the Director shall be construed as a reference also to such person in respect of the functions so assigned to him.

#### PART II.—SEAMEN'S EMPLOYMENT BOARD

5. (1) The Central Government shall, as soon as may be after the publication of these rules, establish, by notification in the Official Gazette, a Seamen's Employment Board.<sup>3</sup>

(2) The Board shall consist of such number of members representing the Government, shipowners and seamen as the Central Government may, from time to time, determine.

(3) The members of the Board representing the Central Government, shipowners and seamen shall, as far as possible, be equal in number and shall be appointed by the Central Government: Provided that the members representing the shipowners and seamen shall be appointed after consultation with the interests concerned.

(4) The Chairman of the Board and, if necessary, a Vice-Chairman shall be appointed by the Central Government from among the members representing the Government on the Board.

(5) The functions of the Board, in addition to those specified in these rules, the term of office of members, the manner of filling vacancies among members and the procedure for the conduct of the business of the Board shall be such as may be determined from time to time by the Central Government;

(6) Members representing shipowners and seamen shall be entitled to receive such fees for attending the meetings of the Board and of its sub-committees, if any, as may from time to time be fixed by the Central Government;

(7) No act done or proceeding taken by the Board under these rules shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

#### PART III.—REGISTRATION

6. With effect from a date<sup>4</sup> to be notified in the Official Gazette by the Director-General of Shipping, no person shall be eligible for engagement as a seaman at Calcutta unless he is duly registered at the Employment Office and is in possession of a Registration Book issued under rule 14.

<sup>3</sup> The Central Government has established, with effect from the 1st of March, 1955, a Seamen's Employment Board at the port of Calcutta for a period of 2 years, under the Ministry of Transport (Transport Wing) Merchant Shipping Notification No. 15-MS(4)/54 dated the 1st March, 1955 published in the Gazette of India Extraordinary, 1955, Part I—Sec. 1, page 77.

<sup>4</sup> 1st day of March, 1955, vide the Ministry of Transport (Merchant Shipping) Notification No. DGS/SEOC/CR—1 dated the 5th March, 1955.

7. No person shall be eligible for registration at the Employment Office unless he—

- (i) (a) holds a valid Continuous Discharge Certificate issued from Calcutta; or
- (b) holds a valid Continuous Discharge Certificate issued from any other port in India and has been customarily recruited from Calcutta;
- (ii) holds a valid certificate of physical fitness issued by a Medical Authority; and
- (iii) is within such age limits as may be prescribed from time to time;

Provided that in exceptional circumstances and for reasons to be recorded in writing, the Director may permit the registration of any person not satisfying any of the above requirements.

8. Applications for registration shall be made in such form and shall be accompanied by such documents as may be prescribed by the Director.

9. An application for registration shall be made personally by the applicant and shall be presented to such official and between such hours of the day as the Director may from time to time appoint in this behalf.

10. All applications for registration duly submitted shall be scrutinised and the names of such applicants as satisfy the requirements of rule 7 shall be approved for registration by the Director.

Provided that, for sufficient reasons recorded in writing, the Director may in his discretion reject any such application.

11. The Director shall cause the particulars of all persons approved for registration to be entered in a Register of Seamen.

12. The Register of Seamen shall be maintained in such form as the Director may prescribe.

13. The Director shall allot to each seaman accepted for registration, a distinct Registration Number which shall be prominently marked on all official documents issued to the seaman.

14. A Registration Book prepared in such form as the Director may prescribe shall be issued to every seaman registered at the Employment Office.

15. Once the name of a person has been registered at the Employment Office, it shall continue to be so registered until it is cancelled or removed from the Register in accordance with the provisions of rules 49 and 50.

16. If upon scrutiny under rule 10, the Director rejects an application, he shall inform the applicant in writing of the reasons for such rejection.

17. Any person whose application is rejected may, within 30 days of his being informed of such rejection, appeal to the Appellate Authority, whose decision in the matter shall be final.

18. Notwithstanding anything contained in these rules but always subject to the provision of rule 7, the Director-General of Shipping may, in exceptional circumstances, by an order in writing, declare that any individual seaman or group of seamen, or any class or category of seamen shall be deemed to have been registered at the Employment Office and thereafter it shall not be necessary for such seaman, group of seamen or class or category of seamen to apply for registration.

#### PART IV.—ROSTERS

19. The Director shall cause a General Roster of seamen to be maintained in such form as he may prescribe and in accordance with the rules hereinafter contained.

20. The names of only such seamen shall be entered in the Roster as are registered at the Employment Office.

21. The General Roster shall have separate sections for such categories of seamen as may be prescribed after consultation with the Board.

22. On application by a shipping company or a group of shipping companies, the Director may maintain separate rosters for all or any of the categories in respect of the seamen customarily employed by that shipping company or group of shipping companies. Such rosters shall be called "Company Rosters".

23. The name of a seaman may be entered in the General Roster or in a Company Roster but not in both.

Provided that no name shall be entered in a Company Roster unless the Company and the seaman concerned have consented in writing to such name being so entered.

24. Once a seaman is accepted for a Company Roster, his name shall continue to be so entered until a change in this behalf is permitted by the Director on the request either of the seaman or the shipping company. The Director shall not, save in exceptional circumstances, permit such change oftener than once in any year.

25. The Shipping Master of the port shall give prior intimation of the time of all discharges of seamen to the Director.

26. For the purpose of facilitating registration or compilation of Rosters, the Director may be present at the time of any discharge.

27. A shipowner who discharges crews at Calcutta or discharges, at any other place, crews which had been recruited through the Employment Office, shall furnish the names and other particulars of such seamen to the Director in such form as he may prescribe.

28. Names shall be entered in the Rosters in accordance with such procedure as may be prescribed after consultation with the Board. A name thus entered shall continue to be borne on the Roster until it is cancelled under rule 40 or sub-rule (i) of rule 51.

#### PART V.—SUPPLY OF SEAMEN

29. All shipowners seeking to engage seamen at Calcutta shall furnish to the Director indents for the various categories of seamen in respect of specific ships as soon as such requirements become known and, in any case, not less than fifteen days in advance of the date when the seamen are actually required. In urgent cases, the Director may, in relaxation of the preceding requirement, accept such indents from the shipowners at shorter notice.

30. On receipt of indents from shipowners, the Director shall arrange to call up the requisite number of seamen from the appropriate roster in accordance with such procedure as may be prescribed after consultation with the Board.

31. Seamen who report to the Employment Office on or before the due date in response to the call under rule 30 shall be eligible for employment in the order in which their names stand in the relevant rosters.

32. Seamen who report to the Employment Office after the due date shall be eligible for employment in such order as may be prescribed after consultation with the Board.

33. Seamen who are eligible for employment shall be issued Muster Cards indicating the order of their eligibility for employment, provided that—

- (i) their certificate of physical fitness is valid; and
- (ii) that they possess requisite health certificate for international travel.

34. Seamen who are issued Muster Cards may be required by the Director to be present at the Employment Office during such hours as the Director may notify.

35. The Director shall offer to shipowners the services of the seamen of each category as are eligible and available for employment on the principle of rotation.

36. (1) A shipowner shall as a rule engage seamen for employment in the order in which they are offered:

Provided that, for reasons stated to the satisfaction of the Director—

- (a) the shipowner may reject any seaman so offered; and
- (b) any seaman may refuse engagement on any ship for which he is proposed or selected.

(2) The Director-General of Shipping may, after consulting the Board, lay down guiding principles for enabling the Director to determine whether the reasons advanced for rejecting a seaman or a ship are satisfactory.

37. When requisite eligible seamen are not available for employment the Director may, notwithstanding anything contained in these rules, offer to a shipowner the services of any persons who are available for employment, provided that the shipowner shall be free to reject any of the persons so offered.

38. When a shipowner requires a substitute in the place of a seaman who was previously recruited through the Employment Office and whose services are, within 24 hours before the ship is due to sail, lost by death, desertion or other unforeseen cause, the recruitment shall, where practicable, be made through the Employment Office, but when not so practicable, the shipowner may recruit a person of his choice but he shall as soon as possible furnish to the Director of the Employment Office full particulars of the substitute so recruited.

39. If at any time the Director-General of Shipping finds that the available volume of employment is inequitably distributed between Company Rosters and General Roster or

between Company Rosters *inter se* he shall, after consulting the Board, take such action as may be necessary to bring about equitable distribution.

40. When a seaman has been selected and engaged, his name in the roster shall stand cancelled.

41. Notwithstanding anything contained in these rules, the Director may permit shipowners to re-engage such seamen as are discharged before the completion of such period of service as the Director-General of Shipping may from time to time prescribe after consulting the Board.

42. The cases of all seamen who fail to get selected on three successive occasions when their services are offered to the shipowners shall from time to time be reviewed by the Director in accordance with such principles and procedure as may be prescribed after consulting the Board.

#### PART VI.—MISCELLANEOUS

43. Seamen shall be eligible for promotion from one category to another on the basis of such principles as may be laid down by the Director-General of Shipping after consultation with the Board. All promotions shall be sanctioned by the Director on the basis of principles thus laid down.

44. Promotions during voyage may be sanctioned by the shipowners, but such promotions shall be temporary and shall not entitle the seamen to be put on the roster of the categories to which they may have been thus temporarily promoted, unless the Director sanctions the promotions permanently in accordance with the provisions of rule 43.

45. In the event of a Registration Book being torn, mutilated or lost, a duplicate may be issued to the seaman concerned on payment of a fee of Rs. 2/- only.

46. Notwithstanding anything contained in these rules—

- (a) all persons employed by shipowners on a permanent basis and in respect of whom one or more declarations to this effect are filed by the shipowners concerned at the Employment Office; and
- (b) all persons employed as clerks, wireless operators, musicians or vishawallas or any other capacity specified in this behalf by the Director, shall for the purpose of sub-section (3) of section 25A be deemed to have been engaged through the Employment Office and nothing in these rules shall apply to the employment of such persons.

47. The Director shall exercise his powers under these rules subject to the supervision, direction and control of the Director-General of Shipping and of such other Officer as the Central Government may appoint in this behalf.

48. For the purpose of preventing seamen from being taken on board any ship in contravention of the provisions of these rules, the Director, Deputy Director or Assistant Director of the Employment Office or any other person duly authorised by the Central Government in this behalf may enter at any time on board any such ship upon which he has reason to believe that seamen from the port where the Employment Office is in existence have been shipped, and may muster and examine the several seamen employed therein.

49. (1) The Director may cancel, under advice to the shipping company in the event of the man being on the Company Roster, the registration of a seaman permanently or he may suspend the seaman's registration for any specified period of time when the Shipping Master reports that a seaman has been adversely reported upon by the shipowner in respect of character, discipline or ability, or that he has been found guilty of any of the following:—

- (a) offences, such as smuggling or theft;
- (b) desertion;
- (c) misbehaviour during the period of engagement;

(2) The Director may also cancel the registration of a seaman permanently or he may suspend the Seaman's registration for any specified period of time—

- (a) on his being found guilty of misbehaviour within the premises of the Employment Office; or
- (b) on his being found guilty of using or attempting to use a false document or making a false declaration for getting his name registered at the Employment Office or for obtaining employment through the Employment Office.

*Explanation:—*Any person found in possession of a false document within the premises of the Employment Office shall be deemed to have attempted to obtain employment by using the false document.

50. The Director shall cancel the registration of a seaman—

- (i) on his attaining such age as the Director-General of Shipping may from time to time after consultation with the Board, specify for the retirement of persons from the seafaring profession;
- (ii) on his being declared permanently unfit for the seafaring profession by a Medical Authority;
- (iii) on his giving or offering or attempting to give or offer directly or indirectly any illegal gratification to any official of the Employment Office or to any other person.

51. (i) The name of any seaman whose registration is cancelled or suspended shall be removed from the roster in which it may have been entered earlier.

- (ii) The name of a seaman whose registration is suspended only for a specified period of time may be re-entered in the roster at the bottom, on the date of the expiry of the period of suspension.

52. A seaman whose registration is cancelled or suspended by an order of the Director, may, within thirty days of his being informed of such order, appeal to the Appellate Authority, whose decision shall be final.

#### PART VII.—TEMPORARY AND TRANSITIONAL PROVISIONS

53. Any seaman on Articles at the time when these rules come into force shall upon discharge, if he is desirous of further recruitment as seaman at Calcutta, apply to the Director for registration at the Employment Office.

54. Any seaman off Articles at the time when these rules come into force if he is desirous of recruitment as seaman at Calcutta shall apply for registration at the Employment Office.

55. Notwithstanding anything contained in these rules, names of seamen who apply for registration under rule 53 shall be entered in the roster in accordance with such procedure as may be prescribed after consultation with the Board.

56. Notwithstanding anything contained in these rules, the Director may, in respect of seamen off Articles when these Rules come into force and who are accepted for registration, maintain separate *ad hoc* rosters in accordance with such procedure as may be prescribed after consultation with the Board.

57. Notwithstanding anything contained in Parts II, IV and V of these rules, the Director-General of Shipping may at the inception of the Employment Office and until such time thereafter not exceeding six months as he may consider necessary, prescribe after consultation with the Board such procedure for the registration, supply and promotion of seamen as he may deem appropriate.

58. Where in these rules the Director-General of Shipping is required to act after consultation with the Board, he may, until the establishment of the Board, act in his discretion.

Provided that any action so taken shall, as soon as may be after the establishment of the Board, be brought to the notice of the Board, and the Director-General may, after ascertaining the views of the Board, take such further action as he may deem appropriate.

#### Eligibility for Engagement as Seamen<sup>1</sup>

In pursuance of rule 6 of the Indian Merchant Shipping (Seamen's Employment Office, Calcutta), Rules, 1954, the Director-General of Shipping hereby notifies that, with effect from the 1st day of March 1955, no person shall be eligible for engagement as a seaman at Calcutta unless he is duly registered at the Seamen's Employment Office and is in possession of a Registration Book issued under rule 14 of the aforesaid rules.

#### DOCK AND PORT LABOUR LEGISLATION

##### Indian Dock Labourers Act, 1934

The Government of India ratified the I. L. O. Convention No. 32, Protection against Accident (Dockers) Convention (Revised) 1932, regarding protection of dock workers against accidents in the loading and unloading of ships and enacted

<sup>1</sup> Published under the Ministry of Transport (Merchant Shipping) Notification No. DGS/SEOC/CR—1 dated the 5th March, 1955 in the Gazette of India Extraordinary, 1955, Part I—Sec. 1, p. 121.

the Indian Dock Labourers Act in 1934 (XIX of 1934) with the object of making provisions for the safety of persons engaged in work at the docks from practically every danger to which they may be exposed in their calling, or against which the revised Convention requires protection. The Act contains an extensive code of regulations providing for the safe maintenance of approaches over wharves, docks or quays and means of access to ship lying at wharves or quays used by the workers. It also provides for first aid in cases of accidents, for submission of report on accidents and for testing of all lifting machinery. The Act does not contain specific provisions to safeguard the interest of the dock labourers. The provisions of the Act had not been brought into force and were held up due to constitutional changes introduced by the Government of India Act of 1935 and later by the outbreak of war. The Act has come into force on the 10th February, 1948, the day when the ratification of the Convention was registered with the International Labour Office.

### **Indian Dock Labourers Regulations, 1948**

The Government of India framed Regulations on the 10th January, 1948 in exercise of the powers conferred by the Act. The Regulations lay down in details the various safety measures to be adopted by different authorities and persons in connection with the loading and unloading of cargo or fuel. The safety of working places and their approaches, lighting and fencing of workplaces and their approaches, access to and from ships, safety measures for transport of workers to and from a ship by water, safety of workers employed in removing or replacing hatch coverings and beams, safety measures in stacking and unstacking, stowing and unstowing of cargo, fencing of machineries, life electric conductors and steam pipes and maintenance of first-aid equipments, ambulances and life saving appliances. The Regulations were amended on several occasions with a view to remove certain defects detected in course of their working. Important amendments were made in August, 1953 placing on the employers the responsibility for reporting the accidents which hitherto rested on the port authorities. The employers have been made responsible for providing first-aid facilities on ships not berthed alongside of a wharf or quay except where they enter into a written agreement with the shipping authorities. The distinction between machinery and plant carried on board a ship and that which is not carried on board has now been removed by an amendment of Regulation 26 with effect from the 22nd August, 1953.

The Act and the Regulations framed thereunder, apply to the major ports of Bombay, Calcutta, Madras, Vishakhapatnam and Cochin and are being at present administered by the Chief Adviser, Factories, Government of India.

### **Regulation of Working Conditions of Dock Workers**

The Royal Commission on Labour in India in their Report published in 1931 recommended a policy of decasualisation for the purpose of regulating the numbers of dock workers according to actual requirements and not according to the whims and caprice of employers or middlemen. In order to reduce the hardship on account of unemployment or under-employment due to excess of dock workers over actual requirement, the Government of India accepted the recommendations of the Commission. The Labour Investigation Committee also commented on the insecurity of the services of dock workers and recommended a scheme of decasualisation. The Government without formulating any scheme of compulsory registration, were attempting to induce the Port Trust authorities for formulating schemes of decasualisation. The attempt not being successful, the Government decided to make statutory provisions for regulating the employment of labour in



docks, with a view to eliminate the hardships caused to them on account of casual nature of their employment.

### **Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948)**

The draft Bill for regulating the employment of dock workers on the lines of U. K. Act of 1946 was discussed in the Labour Ministers' Conference held in New Delhi on the 16th and 17th April, 1947 and also in the Eighth Labour Conference held on 21st and 22nd April, 1947. The Bill was introduced in the first Session of the Dominion Parliament on the 19th November, 1947 by the Hon'ble Labour Minister and the Bill was referred to the Select Committee on the 21st November, 1947. The Select Committee submitted Report on the 28th January, 1948 and the Bill was passed in February, 1948 (Act IX of 1948). The Act received the assent of the Governor-General on the 4th March, 1948.

### **Main Provisions of the Act IX of 1948**

The Act authorises the Central Government, in case of major ports and State Governments, in respect of other ports, to frame schemes for registration of dock workers with a view to regulate their recruitment and registration for securing greater regularity of employment and to provide for terms and conditions of employment of dock workers, whether registered or not, their hours of work, rates of remuneration and conditions of holidays and pay. The Act prescribes a minimum pay for registered workers if employment or full employment is not available to them and also for their training and welfare. The Act also empowers the appropriate Government to constitute an Advisory Committee of not exceeding fifteen, consisting of an equal number of members representing the Government, the dock workers and their employers to advise it in the framing and administration of the schemes formulated under the Act. The Government will make rules providing for composition of the Advisory Committee, manner of selection of members and their terms of office, allowance, if any, and the quorum. The Act also provides for appointment of Inspectors and prescribes the method and manner of lodging complaints with the Inspectors and also the duties of the Inspectors in relation to such complaints.

### **Dock Workers (Regulation of Employment) Amendment Act, 1949**

The Act was amended in 1949 (XXIX of 1949) with a view to give corporate status to the constituted authority responsible for the administration of the schemes made by the Government.

### **Dock Workers Advisory Committee Rules, 1949**

The Dock Workers (Advisory Committee) Rules were published on 1st June, 1949 and are applicable to all the major ports of India. The Rules provide for constitution and function of the Advisory Committee consisting of 15 members to be appointed by the Central Government for a term of 3 years—5 each representing the Central Government, employers and dock workers. The Advisory Committee was constituted with the Chief Labour Commissioner (Central) as the Chairman.

### **Dock Workers (Regulation of Employment) Schemes**

Under the Act, Dock Workers Regulation of Employment Schemes were framed by the Central Government for dock workers in the ports of Bombay on the 27th January, 1951, Calcutta on the 5th October, 1951 and Madras on the 8th March, 1952. The object of the schemes are to ensure greater regularity of employment for dock workers and to ensure that an adequate number of workers is available. The provisions of the above Schemes are more or less similar.

The Schemes are at present applicable to certain specified categories of stevedore workers in the ports of Bombay, Calcutta and Madras.

A Dock Labour Board will be constituted under the Schemes in each of the above three ports. The Board will have an Executive Officer or Administrative Body for the purpose of carrying on day-to-day administration of the Schemes. The said officer will maintain an employers register and a dock workers register and also a Reserve Pool register for the workers and will allocate the registered workers to the registered employers making the fullest possible use of the reserve pool. No registered employer can employ any worker other than a worker allocated to him. The schemes provide for a guaranteed minimum of 12 days' wages and dearness allowance to the workers in the Reserve Pool plus attendance money for those days on which work cannot be provided for them at the rate of one rupee per day. The schemes also provide for payment of disappointment money to the workers for all those days on which they present themselves for work and on which the work cannot proceed for any reason and they would not be provided with alternative work. The Board shall prescribe the rates of wages, allowances, overtime, hours of work, rest intervals, holidays with pay and other conditions of service of registered dock workers. The wage period, time for payment of wages and deductions therefrom will be regulated under the provisions of the Payment of Wages Act, 1936.

All workers in the employment of registered stevedores at the commencement of the schemes are eligible for registration and fresh registration to the Reserve Pool will be made by a Registration Committee on the basis of the age, physical fitness, capacity and experience of the candidates. The recruited workers will be on three months' probation before they are registered on a permanent basis. The schemes also provide for appointment of an Appellate Tribunal to hear and dispose of the appeals from the orders of the Board, the Administrative Body or the Special Officer as the case may be. The cost of operating the scheme shall be defrayed by payment made by the registered employers according to the percentage of levy on the gross wages of different categories of workers not exceeding 5% as fixed by the Board.

For the purpose of administering the Schemes, the Central Government constituted the Bombay Dock Labour Board in April, 1951 (reconstituted in April, 1954), the Calcutta Dock Labour Board on the 2nd September, 1952 and the Madras Dock Labour Board in July, 1953. The Madras Dock Labour Board began to operate from the 16th August, 1954. All the Boards are tripartite in character and consist of 12 members representing in equal numbers, the members representing (1) the Central Government (2) dock workers and (3) employers of dock workers and shipping companies. The Bombay Stevedores' Association and Madras Stevedores' Association have been notified by the Central Government as the Administrative Body for the purposes of the Bombay and Madras Schemes respectively.

### **Enquiry Committee to Report on the Working of the Schemes**

Representations have been received by the Government that the benefit of these schemes or similar schemes should be extended to other categories of dock workers also. The working of the schemes have also evoked a number of complaints from the Shipping Companies and Stevedore employers as well as from the workers. The Shipping Companies and Stevedore employers complained about increasing indiscipline among workers, fall in their efficiency and output, adoption of go-slow tactics and the workers complained that the employers were not carrying out their obligations and they were not getting a fair deal from the Dock Labour Boards set up under the Schemes. The Government, on the recommendation of the

**Dock Workers Advisory Committee** decided to set an **Enquiry Committee** to report on the working of these Schemes.

By a Resolution dated the 14th January, 1955, the Government of India, in the Ministry of Labour appointed the Dock Workers (Regulation of Employment) Enquiry Committee with Sri S. S. Vasist, lately Adviser, Railway Board, New Delhi as Chairman and 9 members "(1) to enquire into the Dock Workers (Regulation of Employment) Schemes in Bombay, Calcutta and Madras, to examine all difficulties encountered by the parties interested in the working of the schemes and to recommend what modifications, if any, in the schemes are necessary; (2) to enquire into the necessity and feasibility of decasualising other categories of labour covered by the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948) at the three ports whether by inclusion into the existing schemes or by the framing of special schemes, and (3) to prepare amendments to existing schemes or to frame new schemes for the further categories of labour, if any, recommended for decasualisation."

#### **Dock Workers (Regulation of Employment) Enquiry Committee, 1955.**

The Committee submitted its Report to the Central Government on the 7th September, 1955. The Report contains several important findings and recommendations. The Committee observed that there was progressive deterioration in the turn-rounds of ships in the ports of Bombay and Calcutta up to 1954 and the Dock Labour Boards did not function as effectively and as efficiently as they should be due to certain defects in the schemes themselves and lack of executive authority to enforce decisions. The Committee felt that effective representation of the Government in the Boards was necessary to secure proper implementation of the schemes. The Committee observed that the Boards had failed to maintain judicious balance between supply and demand and to meet the demands resulting from short-term or seasonal fluctuations, the Boards should be authorised to permit temporary registrations.

The Committee recommended that simple rules should be framed under the Dock Workers (Regulation of Employment) Act, 1948 with the object of regulating the employment of all dock workers and also for regulating employment of new categories of workers. The Committee recommended that wages paid to all workers engaged in loading and unloading of cargoes must be linked with productivity for the purpose of securing reasonable output from workers and maintaining the turn-round of ships at an acceptable level and that the existing system of time rate wages should be replaced by a system of "payment by result" with the provision for an "incentive bonus". The Committee recommended payment of guaranteed minimum monthly wages and further recommended that the minimum number of days in a month for which wages should be guaranteed should be increased progressively from its present level of 12 days to 21 days. The Committee also recommended payment of gratuity and provident fund and suggested that the Calcutta and Madras Dock Labour Boards should provide for payment of gratuity to registered workers as was done by the Bombay Dock Labour Board and a provident fund scheme should be introduced by the Madras Dock Labour Board as was done by the other two Boards. The Committee recommended that the Boards should come into picture before any agreement between the employers and employees was adopted and the Boards should also help in promoting settlement of disputes and should submit reports of their endeavours to the Central Government who should also give due weight to these reports. The Committee recommended that the Boards should adopt a liberal policy for providing welfare and amenities to the workers—amenities within dock area should be provided by the Port Authorities and outside the dock area by the Boards and the Boards should pay special attention to the provision of adequate and suitable housing for workers.

The Committee recommended that the Central Government should exercise effective supervision of the working of the schemes at different ports and co-ordinate all important measures and for these purposes should depute a high level officer who should be the Chairman of the Advisory Committees.

On the basis of the findings and recommendations of the Dock Workers (Regulation of Employment) Enquiry Committee 1955, the Central Government has formulated Revised Drafts of the Calcutta, Madras and Bombay Schemes in March, 1956 repealing the Calcutta Dock Workers (Regulation of Employment) Scheme, 1951, Madras Dock Workers (Regulation of Employment) Scheme, 1952 and Bombay Dock Workers (Regulation of Employment) Scheme, 1951. The Drafts of these Schemes have been published in the Gazette of India for eliciting public opinion.

The main feature of the Revised Schemes is the importance attached to the system of "payment by results." Workers paid by results generally earn more than those paid on time-work in the same occupation or trade, and the dock workers will be benefited considerably.

The Dock Labour Boards at ports will prescribe forms of productivity in respect of cargoes of different kinds. A worker will be entitled to daily wage proportionate to the standard of output and he will also receive a liberal incentive bonus if his output is more than the specified standard.

The Dock Labour Boards will be concerned with matters of policy and will not be responsible for the day-to-day implementation of the decisions. The powers of handling personnel matters should be exercised by senior officers having sufficient authority like the Chairman and the Deputy Chairman (to whom many of the powers of the Chairman may be vested under the Revised Schemes) with provision for appeal to the Central Government against the order of the Chairman.

#### **Indian Ports Act, 1908**

The Indian Ports Act, 1908, as amended in 1922 and 1931 *inter alia* prohibits the employment of children under 12 years of age in handling goods in ports to which the Act applies. The Employment of Children Act, 1938 prohibits employment of children below 15 in any occupation involving the handling of goods within the limits of any port.

#### **Marking of Heavy Packages Act, 1951 & Rules, 1951**

The Government of India introduced the Marking of Heavy Packages Bill in the Parliament on the 11th August 1950 to give effect to the I.L.O. Convention No. 27—Marking of Weight (Packages transported by Vessels, Convention, 1929). The Bill was passed by the Parliament (XXXIX of 1951) and received the assent of the President of the 25th June, 1951. The Act applies to packages or objects weighing not less than one metric ton which is equal to one hundred kilogrammes or 2204.6 standard pounds or 26.8 standard maunds, consigned for transport by sea or inland water-way from any place in India. Under the Act every person consigning a heavy package, the gross weight of which is one thousand kilogrammes or more for transport by sea or inland water, should mark thereon plainly and durably the gross weight of the package. Where there is no means of determining the correct weight of the package, the anticipated maximum and minimum may be marked on the package, e.g., between one and two metric tons. Contravention of the provision regarding marking of the packages is punishable with fine up to Rs. 500/-.

The Marking of Heavy Packages Rules, 1951 which came into force on the 1st November, 1951 require that the gross weight of a heavy package shall be marked thereon in metric tons, kilogrammes, standard pounds or standard maunds in English and also in the regional language, with a kind of paint which cannot be easily effaced.

# INDIAN DOCK LABOURERS ACT, 1934 (XIX OF 1934)

## Statement of Objects and Reasons

The International Labour Conference at its Twelfth Session held in 1929 adopted a Draft Convention concerning the protection against accidents of workers, employed in loading ships. At its Sixteenth Session held in 1932 the Conference adopted a Revised Draft Convention incorporating in the original Draft Convention certain amendments proposed by Government who had experienced difficulties of a practical nature in considering the question of ratifying the original Convention. The revised Draft Convention is of exactly the scope and character as the original Draft Convention adopted in 1929 and differs from it only in certain matters of technical detail.

After consulting the Local Governments and through them the Port Trusts and commercial bodies the Government of India came to the conclusion that the Revised Draft Convention should be ratified on behalf of India.

The Bill is intended to give effect in India to the Revised Draft Convention

# INDIAN DOCK LABOURERS ACT, 1934 (XIX OF 1934)

## Arrangement of Sections

1. Short title, extent, commencement and application.
2. Definitions.
3. Inspectors.
4. Powers of Inspectors.
5. Power to Central Government to make regulations.
6. Power to Central Government to make rules.
7. General provisions relating to regulations and rules.
8. Abstract of Act and Regulations to be conspicuously posted.
9. Penalties.
10. Provision relating to jurisdiction.
11. Power to exempt.
12. Protection to persons acting under this Act.

# INDIAN DOCK LABOURERS ACT, 1934 (XIX OF 1934)

[19th August, 1934.]

*An Act to give effect \* \* \* to the Convention concerning the protection against accidents of workers employed in loading and unloading ships.*

Whereas a Revised Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships was adopted at Geneva on the twenty-seventh day of April, nineteen hundred and thirty-two;

And whereas it is expedient to give effect \* \* \* to the said Convention;

It is hereby enacted as follows:—

**1. Short title, extent, commencement and application.**—(1) This Act may be called the Indian Dock Labourers Act, 1934.

(2) It extends to <sup>3</sup>[the whole of India \* \* \* \*].

<sup>1</sup> For Statement of Objects and Reasons, see the Gazette of India, 1933, Part V, p. 195.

<sup>2</sup> The words "in the Provinces of India" deleted by the Adaptation of Laws Order, 1950.

<sup>3</sup> Substituted by the Adaptation of Laws Order, 1950.

<sup>4</sup> The words "except Part B States" deleted by Part B States (Laws) Act, 1951 (III of 1951).

(3) It shall come into force on such date<sup>5</sup> as the "[Central Government]" by notification in the "[official Gazette]" appoint.

(4) It shall not apply to any ship of war of any nationality.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "the processes" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it; and

(b) "worker" means any person employed in the processes.

**3. Inspectors.**—(1) The "[Central Government]" may, by notification in the "[official Gazette]", appoint such persons as it thinks fit to be Inspectors<sup>10</sup> for the purposes of this Act within such local limits as it may assign to them respectively.

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex-officio*, within the limits of their charges.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as "[Central Government]" may direct.

**4. Powers of Inspectors.**—Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any premises or ship where the processes are carried on;

(b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act, and

(c) exercise any other powers which may be conferred upon him by the regulations made under section 5.

**5. Power to "[Central Government]" to make regulations.**—(1) The "[Central Government]" may make regulations—

(a) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches;

(b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel;

<sup>5</sup> 10th February, 1948, *vide* the Ministry of Labour Notification No. Fac. 38(1)A, dated the 10th January, 1948.

<sup>6</sup> These words were substituted for the words "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>7</sup> These words were substituted for the words "Gazette of India", *ibid.*

<sup>8</sup> These words were substituted for the words "Local Government", *ibid.*

<sup>9</sup> These words were substituted for the words "local official Gazette", *ibid.*

<sup>10</sup> Inspectors have been appointed under the Ministry of Labour Notification No. Fac. 38(1) dated the 26th January, 1948.

- (c) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose;
- (d) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on;
- (e) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them;
- (f) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed;
- (g) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings;
- (h) prescribing the measures to be taken to ensure that no hoisting machine, or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition;
- (i) providing for the fencing of machinery, live electric conductors and steam pipes;
- (j) regulating the provision of safety appliances on derricks, cranes and winches;
- (k) prescribing the precautions to be observed in regard to exhaust and live steam;
- (l) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers;
- (m) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith;
- (n) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo;
- (o) prescribing the precautions to be observed in the use of stages and trucks;
- (p) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods;
- (q) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment;
- (r) prescribing the provision to be made for the rescue of immersed workers from drowning;
- (s) prescribing the Abstracts of this Act and of the Regulations required by section 8;
- (t) providing for the submission of notice of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished, the particulars

to be contained in them and the time within which they are to be submitted;

(u) specifying the persons and authorities who shall be responsible for compliance with regulations made under this Act;

(v) defining the circumstances in which and conditions subject to which exemptions from any of the regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating their procedure;

(w) defining the additional powers which Inspectors may exercise under clause (c) of section 4; and

(x) providing generally for the safety of workers.

(2) Regulations made under this section may make special provision to meet the special requirements of any particular port or ports.

(3) In making a regulation under this section, the <sup>11</sup>[Central Government] may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

**6. Power of <sup>12</sup>[Central Government] to make rules.**—<sup>13</sup>\* \* \* the <sup>12</sup>[Central Government] may make rules regulating—

(a) the inspection of premises or ships where the processes are carried on; and

(b) the manner in which Inspectors are to exercise the powers conferred on them by this Act.

**7. General provisions relating to regulations and rules.**—(1) The power to make regulations and rules conferred by sections 5 and 6 is subject to the condition of the regulations and rules being made after previous publication.

(2) Regulations and rules shall be published in <sup>14</sup>[the official Gazette].

**8. Abstracts of Act and Regulations to be conspicuously posted.**—There shall be affixed in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, in English and in the language of the majority of the workers, the Abstracts of this Act and of the Regulations made thereunder which may be prescribed by the regulations.

**9. Penalties.**—Any person who—

(a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector or

(b) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or

<sup>11</sup> These words were substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>12</sup> These words were substituted for the words "Local Government", *ibid.*

<sup>13</sup> The words "Subject to the control of the Governor-General in Council" were omitted, *ibid.*

<sup>14</sup> These words were substituted for the words "the Gazette of India and the local official Gazette respectively", *ibid.*



- (c) **having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,**

shall be punishable with fine which may extend to five hundred rupees.

**10. Provisions relating to jurisdiction.**—(1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or the Regulations made thereunder.

(2) No prosecution for any offence under this Act or the Regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

(3) No Court shall take cognizance of any offence under this Act or the Regulations made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

**11. Power to exempt.**—The <sup>15</sup>[Central Government] may, by notification in the <sup>16</sup>[official Gazette], exempt from all or any of the provisions of this Act and of the Regulations made thereunder, on such conditions, if any, as he thinks fit,—

(a) any port or place, dock, wharf, quay or similar premises at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or

(b) any specified ship or class of ship.

**12. Protection to persons acting under this Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

## INDIAN DOCK LABOURERS REGULATIONS, 1948

### Arrangement of Paragraphs

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<sup>15</sup> These words were substituted for the words "Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

<sup>16</sup> These words were substituted for the words "Gazette of India", *ibid.*

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# INDIAN DOCK LABOURERS REGULATIONS, 1948<sup>1</sup>

In exercise of the powers conferred by section 5 of the Indian Dock Labourers Act, 1934 (XIX of 1934) the Central Government is pleased to make the following Regulations, the same having been previously published as required by section 7 of the said Act, namely:—

## INDIAN DOCK LABOURERS REGULATIONS, 1948

### PART I

**1. Title and application.**—(1) These Regulations may be called the Indian Dock Labourers Regulations, 1948.

(2) They extend to the whole of India.

(3) They shall apply only within the limits of major ports as defined by or under the Indian Ports Act, 1908.

**2. Definitions.**—In these Regulations, unless there is anything repugnant in the subject or context,—

- (a) "The Act" means the Indian Dock Labourers Act, 1934 (XIX of 1934);
- (b) "form" means a Form appended to these Regulations;
- (c) "hatch" means an opening in a deck used for the purpose of the processes or for trimming or for ventilation;
- (d) "hatchway" means the whole space within the square of the hatches from the top deck to the bottom of the hold;
- (e) "inspector" means an officer authorised by the Central Government under section 3 of the Act;
- (f) "lifting machinery" means cranes, winches, hoists, derrick booms, derrick and mast bands, goose necks, eyebolts, and all other permanent attachments to the derricks, masts and decks, used in hoisting or lowering in connection with the processes;
- (g) "process" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it;
- (h) "prescribed" means prescribed by the Central Government;
- (i) "premises" means any dock, wharf, quay, or landing place where the processes of loading or unloading of cargo or fuel into or from a ship are carried on;
- (j) "pulley block" means pulley, block, gin and similar gear, other than a crane block specially constructed for use with a crane to which it is permanently attached;
- (k) "schedule" means a schedule appended to these Regulations;
- (l) "ship" does not include country craft, barges or lighters, but includes any other vessel used in navigation not exclusively propelled by oars;
- (m) "worker" means any person employed in the processes; and
- (n) words and expressions not defined in the regulations but defined or used in the Act have the meaning assigned to them in the Act.

**3. Powers of Inspectors.**—(1) An Inspector may, with such assistance (if any) as he thinks fit,—

- (i) enter, inspect and examine at any time by day or night any premises or ship where the processes are carried on;
- (ii) make such examination of the premises or ship and the machinery and gear, fixed or loose, used in the processes as he may deem necessary for carrying out the purposes of the Act;
- (iii) require the production of any registers, certificates, notices and documents required to be kept in pursuance of the Act and Regulations and inspect, examine and copy any of them;
- (iv) examine and take on the spot or otherwise such evidence of any person as he may deem necessary.

<sup>1</sup> These Regulations were published under the Ministry of Labour Notification No. Fac. 38(1)B dated the 10th January, 1948 as amended by Notifications Nos. Fac. 38(9) dated the 14th May, 1949; Fac. 38(1) dated the 21st September, 1949; DL/188/750 dated the 29th October, 1949; Fac. 38(15) dated the 18th March, 1950; S.R.O. 1641 dated the 22nd August, 1953; Fac. 38(38) dated the 23rd December, 1953; Fac. 38(28) dated the 15th May, 1954 and Fac. 38(28) dated the 25th June, 1954.

(2) The person having the general management and control of the premises and the owner, master, officer-in-charge or agents of the ship as the case may be shall furnish such means as may be required by an Inspector for entry, inspection, examination, inquiry, or otherwise for the exercise of his powers under the Act and Regulations in relation to that ship or premises.

**4. Duties of Inspectors.**—(a) An Inspector shall at each inspection of any premises or ship satisfy himself that the provisions made in the Act and Regulations are fully observed.

(b) An Inspector shall hold an enquiry into the causes of any accident which he has reason to believe was the result of the collapse or failure of lifting machinery or non-compliance with any of the provisions of the Act and Regulations.

(c) An Inspector shall ascertain at each inspection how far any defects disclosed at a previous inspection have been rectified and how far any orders previously issued by him have been complied with. His findings and any defects which may come to light during the current inspection, together with any orders passed by him under the Act or these Regulations shall be recorded in an Inspection Register maintained in accordance with clause (d) below.

An extract from the record including the orders of the Inspector together with any remarks he may wish to make or any defects found to exist in such ship, premises, lifting machinery or gear that he may wish to bring to notice shall be sent to the owner, master, officer-in-charge or agents of the ship or the person in general management and control of the premises, or the person, who by himself, his agents, or his employees, carries on the process, as the case may be, in Form 'IX'.

(d) The Inspector shall keep and properly maintain a record of his inspections in a separate register specially maintained for the purpose.

**5. Penalties.**—Whoever being a person whose duty it is to comply with any of these Regulations commits a breach of such Regulations shall be punishable with fine which may extend, in the case of breach of Regulations 59 and 61 to Rs. 200, and in any other case to Rs. 500, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

## PART II

**6. Responsibilities.**—(1) It shall be the duty of the person having the general management and control of a dock, wharf or quay, to comply with Regulations 7 to 11, 13, 14 and 63:

Provided that, if any other person has, by exclusive right to occupation of any part of the dock, wharf or quay, acquired the general management and control of such part, the duty in respect of such part shall devolve on such other person:

Provided further that, in case of work done on a ship not berthed alongside wharf or quay, it shall be the duty of the person who, by himself, his agents or his employees, carries on the process, to comply with Regulation 10 unless he enters into an agreement in writing with the owner, master, officer-in-charge or agents of the ship that the latter will always keep the first aid equipment readily available on the ship, in which case it shall be the duty of the owner, master, officer-in-charge or agents of the ship to comply with Regulation 10.

(2) It shall be the duty of the person, who, by himself, his agents, or his employees, carries on the process, to comply with Regulation 12.

**7. Fencing of working places and approaches.**—(1) Every regular approach over a dock, wharf or quay which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers.

(2) In particular, the following parts shall, as far as is practicable having regard to the traffic and working be securely fenced so that the height of the fence shall be in no place less than two feet six inches, and the fencing shall be maintained in good condition ready for use:—

(a) all breaks, dangerous corners, and other dangerous parts or edges of a dock, wharf or quay;

(b) both sides of such footways over bridges, caissons, and dock gates as are in general used by workers and each side of the entrance at each end of such footway for a sufficient distance not exceeding five yards:

Provided that in the case of fences which were constructed before the date of promulgation of these regulations, it shall be sufficient if the height of the fence is in no place less than two feet three inches.

**8. Lighting of working places and approaches.**—All places in which workers are employed and any dangerous parts of the regular road or way over a dock, wharf or quay, forming the approach to any such place from the nearest highway, shall be safely and efficiently lighted.

**9. Life-saving appliances.**—Provision for the rescue from drowning of workers shall be made and maintained, and shall include—

- (a) a supply of life-saving appliances, kept in readiness on the wharf or quay, which shall be reasonably adequate having regard to all the circumstances, and
- (b) means at or near the surface of the water at reasonable intervals for enabling a person immersed to support himself or escape from the water which shall be reasonably adequate having regard to all the circumstances.

**10. First aid.**—(1) A sufficient number of first-aid boxes or cupboards of the standard set out in Schedule I, shall be provided at all places which are in frequent use for the process, and these shall be at reasonable distance from one another.

(2) Every first-aid box or cupboard shall be clearly marked "FIRST AID".

(3) Nothing except appliances or requisites for first-aid shall be kept in a first-aid box or cupboard.

(4) First-aid boxes or cupboards or equipment shall be kept stocked and in good order and each first-aid box or cupboard shall be placed under the charge of a responsible person who shall always be readily available during working hours. Such person shall, except at docks, wharves or quays at which the total number of workers at any time does not exceed fifty, be a person, trained in first-aid.

(5) A sufficient number of standard Army Pattern or "Furley" telescopic handle stretchers complete with slings and "Neil Robertson" or other suitably constructed sling stretchers or other similar appliances for raising injured persons from holds of ships shall be provided at convenient places so as to be readily available in an emergency.

**11. Ambulances.**—There shall be provided for use at every dock, wharf or quay at which the total number of workers at any time exceeds fifty, a suitably constructed motor ambulance carriage or launch maintained in good condition for the purpose of the removal of serious cases of accident or sickness, unless arrangements have been made for obtaining such a carriage or launch when required from a hospital or other place situate not more than two miles from the dock, wharf or quay, and in telephone communication therewith.

**12. Reports of accidents and dangerous occurrences.**—(1) Whenever any accident occurs which either—

- (a) causes loss of life to a worker, or
- (b) causes such severe injury to a worker that there is no reasonable hope that he will be able to return to work within 48 hours, notice of the accident shall forthwith be sent by telegram, telephone or special messenger within four hours of the occurrence, to
  - (i) the Inspector notified for the purpose;
  - (ii) the relatives of—
    - (a) the deceased person, in case of fatal accident; and
    - (b) the injured person, in case the injury is of such a serious nature that the worker is likely to be prevented from returning to duty within ten days; and
  - (iii) in the case of fatal accidents only,
    - (a) the officer-in-charge of the nearest Police Station, and
    - (b) the District Magistrate or if the District Magistrate by order so directs, the Sub-Divisional Magistrate:

Provided that a notice of any accident of which notice is sent in accordance with the requirements of the Explosives Act, 1884, or the Petroleum Act, 1934, need not be sent in accordance with the requirements of this regulation.

In cases of sub-clause (b) of clause (1) above, the injured person shall be given first-aid and thereafter immediately conveyed to a hospital or other place of treatment.

(2) Where any accident causing disablement is notified under this regulation and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the authorities mentioned in clause (1) immediately the death occurs

(3) The following classes of dangerous occurrences shall forthwith be reported to the Inspector in the manner prescribed in clause (1), whether personal injury or disablement is caused or not:—

- (i) collapse or failure of lifting machinery;

(ii) breakages of ropes, chains or other appliances used in raising or lowering of persons or goods; and

(iii) collapse or failure of means of access to or from a ship.

(4) The notice so given under clause (1) or clause (3) shall be confirmed within 48 hours of the occurrence by sending a written report to the Inspector in Form XII.

**13. Washing facilities.**—There shall be provided and maintained in good and clean condition for the use of workers engaged in loading or unloading coal and dangerous and noxious goods suitable facilities for washing at conveniently accessible places.

**14. Notices.**—Notices shall be exhibited in prominent positions at every dock, wharf, or quay stating—

(a) the position of each first-aid box and the place where the person in charge thereof can be found,

(b) the position of stretchers or other appliances, and

(c) the position of the ambulance carriage or, where such is not provided, the position of the nearest telephone and the name and telephone number of the hospital or other place from which such carriage may be obtained.

### PART III

**15. Responsibilities.**—It shall be the duty of the owner, master, officer-in-charge or agents of the ship to comply with Regulations 16 to 24.

**16. Access between shore and ship.**—If a ship is lying at a wharf or quay for the purpose of loading or unloading or coaling there shall be safe means of access for the use of workers at such times as they have to pass from the ship to the shore or from the shore to the ship as follows:—

(a) where reasonably practicable the ship's accommodation ladder or a gangway or a similar construction not less than twenty-two inches wide, properly secured and fenced throughout on each side to a clear height of two feet nine inches by means of upper and lower rails, taut ropes or chains or by other equally safe means, except that in the case of the ship's accommodation ladder such fencing shall be necessary on one side only provided that the other side is properly protected by the ship's side.

(b) in other cases a ladder of sound material and adequate length which shall be properly secured to prevent slipping:

Provided that nothing in this regulation shall be held to apply to cargo stages or cargo gangways if other proper means of access is provided in conformity with these Regulations:

Provided also that as regards any sailing vessel not exceeding 250 tons net registered tonnage and any mechanically propelled vessel not exceeding 150 tons gross registered tonnage this regulation shall not apply if and while the conditions are such that it is possible without undue risk to pass to and from the ship without the aid of any special appliances.

**17. Access from ship to another vessel.**—(1) If a ship is alongside another vessel, and workers have to pass from one to the other, safe means of access shall be provided for their use, unless the conditions are such that it is possible to pass from one to the other without undue risk and without the aid of any special appliance.

(2) If the other vessel is a sailing barge, flat, keel, lighter or other similar vessel of relatively low freeboard, the means of access shall be provided by the ship which has the higher freeboard.

**18. Access between deck and hold.**—(1) If the depth from the level of the deck to the bottom of the hold exceeds five feet, there shall be maintained safe means of access from the deck to the hold in which work is being carried on.

(2) Save as hereinafter provided such access shall be afforded by ladder, and by ladder cleats or cups on the coamings, and shall not be deemed to be safe—

(a) unless the ladders between the lower decks are in the same line as the ladder from the top deck if the same is practicable having regard to the position of the lower hatch or hatches;

(b) unless the ladders provide a foothold of a depth including any space behind the ladder of not less than  $4\frac{1}{2}$  inches for a width of 10 inches and a firm handhold;

(c) unless the cleats or cups provided on coamings (i) provide a foothold of a depth including any space behind the cleats or cups of not less than  $4\frac{1}{2}$  inches for a width of 10 inches and a firm handhold; (ii) are so constructed as to prevent

- a man's foot slipping off the side, (iii) are placed vertically one above the other and in the same lines as the ladders to which they give access;
- (d) unless the cargo is stowed sufficiently far from the ladder to leave at each rung of the ladder foothold of a depth including any space behind the ladder of not less than  $4\frac{1}{2}$  inches for a width of 10 inches and a firm handhold;
  - (e) unless there is room to pass between a winch or other obstruction and the coamings at the place where the ladder leaves the deck; or
  - (f) if the ladder is recessed under the deck more than is reasonably necessary to keep the ladder clear of the *hatchway*:

Provided that such access may be afforded—

- (i) where the provision of a ladder on a bulkhead or in a trunk *hatchway* can be shown to be reasonably impracticable by cleats or cups complying with the requirements of clause (c);
  - (ii) by ladders or steps, separate from any *hatchway* or sloping from deck to deck, if such ladders or steps comply with the requirements of clauses (b), (d) and (e).
- (3) Shaft tunnels shall be equipped with adequate handhold and foothold on each side.
- 19. Lighting for processes on ships.**—When the processes are being carried on—

- (a) the places in the hold and on the decks where work is being carried on,
- (b) the means of access provided in pursuance of Regulations 16 and 17, and
- (c) all parts of the ship to which workers may be required to proceed in the course of their employment.

shall be efficiently lighted, due regard being had to the safety of the ship and cargo, of all workers and of navigation of other vessels and to the provisions of any law and of any rules, regulations, orders or bye-laws having the force of law.

**20. Beams used for hatch coverings.**—All fore and aft beams and thwartship beams used for *hatch* covering shall have suitable gear for lifting them on and off without it being necessary for any person to go upon them to adjust such gear.

**21. Marking of beams and hatch coverings.**—(1) All hatch coverings shall be kept plainly marked to indicate the deck and *hatch* to which they belong and their position therein:

Provided that this regulation shall not apply in cases where all the *hatch* coverings of a ship are interchangeable or, in respect of marking of position, where all *hatch* coverings of a *hatch* are interchangeable.

(2) Sub-regulation (1) shall also apply to fore and aft beams and to thwartship beams as it applies to *hatch* coverings.

**22. Maintenance of beams and hatch coverings.**—All fore and aft beams and thwartship beams used for *hatch* coverings and all *hatch* coverings shall be maintained in good condition.

**23. Hand grips.**—Adequate hand grips shall be provided on all *hatch* coverings, having regard to their size and weight, unless the construction of the *hatch* or the *hatch* coverings is of a character rendering the provisions of hand grips unnecessary.

**24. Handling of noxious and dangerous goods.**—No person shall be allowed to enter any hold of a vessel wherein there is given off dust, fumes or other impurities of such a nature and to such an extent as is likely to be injurious or offensive to the workers, or any dust in substantial quantities, unless—

- (i) all practical steps have been taken to remove the dust, fumes or other impurities which may be present and to prevent any further ingress thereof, and the responsible authority under this part has satisfied himself that the said hold is free from dust, fumes or other impurities and fit for persons to enter the same, or
- (ii) the person entering such a hold has been provided with suitable protective equipment.

#### PART IV

**25. Responsibilities.**—It shall be the duty of the owner of machinery or plant used in the processes and in the case of machinery or plant carried on board a ship not being a ship registered in India, it shall also be the duty of the master or chief officer of such a ship to comply with Regulations 26 to 43.

**26. Competent persons.**—In this part, save as otherwise expressly defined in Regulation 28, the expression "competent person" means an official of a workshop in India

approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised) 1932 adopted by the International Labour Conference.

**27. Lifting machinery.**—(1) *All lifting machinery* shall have been tested and examined by a competent person in the manner set out in Schedule II before being taken into use.

(2) All derricks and permanent attachments, including bridle chains, to the derrick, mast and deck used in hoisting or lowering shall be inspected once in every twelve months and be thoroughly examined once at least in every four years by a responsible person.

(3) All other *lifting machinery* shall be thoroughly examined by a responsible person once at least every twelve months.

(4) For the purposes of the regulations thorough examination means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts examined; and if necessary for the purpose, parts of the machinery and gear, shall be dismantled.

**28. Special types of loose gear.**—The following classes of gear, namely:—

- (1) chains made of malleable cast iron;
  - (2) plate link chains;
  - (3) chains, rings, hooks, shackles and swivels made of steel;
  - (4) pitched chains;
  - (5) rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
  - (6) hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts; and
  - (7) Bordeaux connections,
- shall be thoroughly examined by a competent person once at least in every twelve months.

For the purposes of this regulation thorough examination means a visual examination supplemented if necessary by other means, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts examined, and if necessary for the purpose, parts of the gear shall be dismantled.

For the purposes of 'thorough examination' of the gear carried on board a ship, the Master or the Chief Officer of the ship shall be deemed to be the 'competent person'.

**29. Other loose gear.**—(1) No chain, ring hook, shackle, swivel or *pulley block* shall be used in hoisting or lowering unless it has been tested and examined by a competent person in the manner set out in Schedule II.

(2) All chains other than bridle chains attached to derricks or masts and all rings, hooks, shackles and swivels used in hoisting or lowering shall unless they have been subjected to such other treatment as an Inspector may, subject to confirmation by the Central Government, approve, be effectually annealed under the supervision of a competent person and at the following intervals:—

- (i) half-inch and smaller chains, rings, hooks, shackles and swivels in general use, once at least in every six months,
- (ii) all other chains, rings, hooks, shackles and swivels in general use once at least in every twelve months:

Provided that nothing in this sub-regulation shall apply to any of the gear mentioned in Regulation 28:

Provided also that in the case of such gear used solely on cranes and other hoisting appliances worked by hand twelve months shall be substituted for six months in sub-clause (i) and two years for twelve months in sub-clause (ii).

Provided also that where an Inspector is of opinion, that, owing to the size, design, material or infrequency of use of any such gear or class of such gear, the requirement of this regulation as to annealing is not necessary for the protection of *workers*, he may by certificate in writing (which he may in his discretion revoke) and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement subject to such conditions as may be specified in such certificate.

(3) All chains, other than bridle chains attached to derricks or masts, and all rings, hooks, shackles, swivels and all *pulley blocks* shall be inspected by a responsible person



immediately before being taken into use unless they have been inspected within the preceding three months.

(4) All chains, rings, hooks, shackles or swivels used in hoisting or lowering which have been lengthened, altered or repaired by welding shall before being again taken into use be adequately tested and re-examined by a competent person in the manner set out in Schedule II.

**30. Ropes.**—(1) No rope shall be used in hoisting or lowering unless—

(a) it is of suitable quality and free from patent defect; and

(b) in the case of wire rope, it has been examined and tested by a competent person in the manner set out in Schedule II.

(2) Every wire rope in general use for hoisting or lowering shall be inspected by a responsible person once at least in every three months, provided that after any wire has broken in such rope it shall be inspected once at least in every month.

(3) No wire rope shall be used in hoisting or lowering if in any length of eight diameters the total number of visible broken wires exceeds ten per cent. of the total number of wires or the rope shows signs of excessive wear, corrosion or other defect which, in the opinion of the person who inspects it, renders it unfit for use.

(4) A thimble or loop splice made in any wire rope shall have at least three tucks with a whole strand of the rope and two tucks with one half of the wires cut out of each strand and the strands in all cases shall be tucked against the lay of the rope:

Provided that this regulation shall not operate to prevent the use of another form of splice which can be shown to be as efficient as that laid down in this regulation.

**31. Register of periodical examination.**—A Register in Form II shall be maintained in which shall be entered particulars of:—

(a) annual inspections and quadrennial examinations required by regulation 27(2);

(b) annual examination required by regulation 27(3);

(c) the examinations mentioned in regulation 28; and

(d) the annealing under regulation 29(2) of chains, rings, etc., unless the certificate mentioned in regulation 32(2) has been attached to the register in Form II.

**32. Certificates of competent persons.**—(1) Certificate shall be prepared and attached to the register in Form II in respect of the following in the Forms shown against each:

(a) test and examination under regulation 27(1) of—

(i) winches, derricks and their accessory gear—Form III;

(ii) cranes or hoists and their accessory gear—Form IV;

(b) test, examination and re-examination under regulation 29(1) and (4) of chains, rings, hooks, shackles, swivels and pulley-blocks—Form V;

(c) test and examination under regulation 30(1)(b) of wire rope—Form VI.

(2) Certificates shall be prepared of the annealing of chains, etc., under regulation 29(2) in Form VII, and unless the required particulars have been entered in the register in Form II, shall be attached to that register.

(3) Certificates shall be prepared of the annual thorough examination of the gear mentioned in regulation 28 in Form VIII.

**33. Maintenance and production of register and certificates.**—The register and the certificates attached to the register—

(a) shall be kept on the premises unless some other place has been approved in writing by an Inspector;

(b) shall be produced on demand before an Inspector; and

(c) shall be retained for at least four years after the date of the last entry.

**34. Machinery etc., not to be brought into use until the necessary entries are made in the Register.**—No machinery, chain, rope or other gear in respect of which an entry is required to be made in the register in Form II, or in respect of which a certificate is required to be attached to such register, whether as an alternative to an entry in Form II or otherwise or in respect of which a certificate is required to be prepared, shall be used unless and until the required entry has been made, or the required certificate has been so attached or prepared, as the case may be.

**35. Pulley blocks.**—No Pulley block shall be used in hoisting or lowering unless the safe working load is clearly stamped upon it.

**36. Safe working load for chain and wire rope slings.**—Means shall be provided to enable any person using a chain or wire rope sling to ascertain the safe working load

for such chain or wire rope sling under such conditions as it may be used. Such means shall consist—

- (a) as regards chain slings, of marking the safe working load in plain figures or letters upon the sling or upon a tablet or ring of durable material attached securely thereto, and
- (b) as regards wire rope slings, of either the means specified in clause (a) or a notice or notices, so exhibited as to be easily read by any person concerned, stating the safe working loads for the various sizes of wire rope slings used.

**37. Maintenance of chains.**—Chains shall not be shortened by tying knots in them; and suitable packing shall be provided to prevent the links coming into contact with sharp edges of loads of hard material.

**38. Fencing of motors, etc.**—All motors cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their position and construction they are equally safe to every worker as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship and without infringing any rules, regulations, orders, or byelaws, having the force of law.

**39. Precautions against accidental fall of loads.**—(1) Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being raised or lowered; in particular, the lever controlling the link motion reversing gear of a crane or winch shall be provided with a suitable spring or other locking arrangement.

(2) The end of a wire rope used for hoisting or lowering shall be securely attached to the winding drum of the winch by means of a clamp or other suitable means.

**40. Fencing of and access to cranes.**—The driver's platform on every crane or trip driven by mechanical powers shall be securely fenced and shall be provided with safe means of access. In particular where access is by a ladder—

- (a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handhold shall be provided;
- (b) the landing place on the platform shall be maintained free from obstruction;
- (c) in cases where the ladder is vertical and exceeds thirty feet in height, a resting place shall be provided, approximately midway between the platform and the foot of the ladder.

**41. Safe working load for cranes, etc.**—Every crane and derrick shall have the safe working load plainly marked upon it, and every shore crane if so constructed that the safe working load may be varied by the raising or lowering of the jib or otherwise, shall have attached to it an automatic indicator of safe working loads, provided that in cases where the jib may be raised or lowered, provision on the crane of a table showing the safe working loads at the corresponding inclinations or radio of the jib shall be considered sufficient compliance.

**42. Steam.**—Adequate measures shall be taken to prevent exhaust steam from, and so far as is practicable live steam to any crane or winch obscuring any part of the gangways, stages, wharf, or quay where any person is employed in the *processes*.

**43. Derricks.**—Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support.

## PART V

**44. Responsibilities.**—It shall be the duty of every person who by himself, his agents, or employees carries on the processes, and of all agents, employees and workers employed by him in the processes, to comply with Regulations 45 to 57-A:

Provided that, where the processes are carried on by a stevedore or other person other than the owner of the ship, it shall be the duty of the owner, master or officer-in-charge of the ship to comply with Regulation 50 so far as it concerns—

(1) any hatch not taken over by the said stevedore or other person for the purpose of the processes, and

(2) any hatch which, after having been taken over by the said stevedore or other person for the purpose of the processes—

- (i) has been reported by written notice in Form I to the owner, master or officer-in-charge of the ship, by or on behalf of the said stevedore or other person as being a hatch at which the processes have been completed or completed for the time being, and,

- (ii) either has been left by the said stevedore or other person fenced or covered as required by Regulation 50 or has been taken into use by or on behalf of the owner of the ship, and in either case has been so reported by such written notice as aforesaid.

It shall be the duty of the owner, master or officer-in-charge of the ship to give immediately a written acknowledgement in Form I of such written notice as aforesaid.

**45. Escape from holds, etc.**—Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on 'tween decks' in dealing with coal or other bulk cargo.

**45-A. Access to and from undecked vessels.**—When, in a vessel which is not decked, workers have to carry on the processes in a hold, the depth of which exceed 5 feet, there shall be safe means of access to and from the hold for their use, and when a ladder is to be used in the hold, it shall be equipped at the top with hooks or other means for firmly securing it.

**46. Loading of lifting machinery.**—(1) No *lifting machinery*, chains or other lifting appliance shall be loaded beyond the safe working load:

Provided that a crane may be loaded beyond the safe working load in exceptional cases to such extent and subject to such conditions as may be approved by the engineer-in-charge or other competent person, if on each occasion—

- (a) the written permission of the owner or his responsible agent has been obtained, and
- (b) a record of the over-load is kept:

Provided also that, where the load upon a single sheave *pulley block* is attached to the *pully block* instead of to the chain or rope passing round the sheave, the load on the *pully block* shall be deemed for the purpose of this regulation to be half the actual load.

(2) No load shall be left suspended from a crane, winch, or other machine unless there is a competent person actually in charge of the machine while the load is so left.

**47. Drivers of cranes, etc.**—No person under 18 years of age and no person who is not sufficiently competent and reliable shall be employed as driver of a crane or winch whether driven by mechanical power or otherwise, or to give signals to a driver or to attend to cargo falls on winch-ends or winch bodies.

**48. Passages to be kept clear.**—Where goods are placed on a wharf or quay,—

- (a) a clear passage leading to the means of access to the ship required by Regulation 11 shall be maintained on the wharf or quay; and
- (b) if any space is left along the edge of the wharf or quay, it shall be at least three feet wide and clear of all obstructions other than fixed structures, plant and appliances in use.

**49. Deck and cargo-stages.**—No deck-stage or cargo-stage shall be used in the *processes* unless it is substantially and firmly constructed and adequately supported, and, where necessary, securely fastened.

(2) No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

(3) Any stage which is slippery shall be made safe by the use of sand or otherwise.

**50. Hatches not in use.**—(1) If any hatch of a hold accessible to any worker and exceeding five feet in depth, measured from the level of the deck in which the *hatch* is situated to the bottom of the hold, is not in use for the passage of goods, coal or other material, or for trimming, and the coamings are less than two feet six inches in height, such *hatch* shall either be fenced to a height of three feet or be securely covered and similar measures shall be taken, when necessary to protect all other openings in a deck which might be dangerous to the workers:

Provided that this requirement shall not apply (i) to vessels not exceeding 200 tons net registered tonnage which have only one *hatchway*, and (ii) to any vessel during meal times or other short interruptions of work during the period of employment.

(2) *Hatch* coverings shall not be used in the construction of deck or cargo stages, or for any other purpose which may expose them to damage.

(3) *Hatch* coverings shall be replaced on the hatches in the positions indicated by the markings, made thereon in pursuance of Regulation 21.

**51. Handling at intermediate decks.**—No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck unless either the *hatch* at that deck is securely covered

or a secure landing platform of a width not less than that of one section of *hatch* coverings has been placed across it:

Provided that this regulation shall not apply to any process of unloading the whole of which will be completed within a period of half an hour.

**52. Hooks for bales, etc.**—When the working space in a hold is confined to the square of the *hatch*, hooks shall not be made fast in the bands or fastenings of bales of cotton, wool, cork, gunny bags or other similar goods, nor shall canhooks be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe.

Nothing in this regulation shall apply to breaking out or making up slings.

**53. Skeleton decks.**—When work is proceeding on any skeleton deck, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of two feet of such deck.

**54. Stowing and unstowing.**—Where stacking, unstacking, stowing or unstowing of cargo or handling in connection therewith cannot be safely carried out unaided reasonable measures to guard against accident shall be taken by shoring or otherwise.

**55. Hatches in use.**—(1) All hatch covers exceeding 125 lbs. in weight and all beams of any hatch in use shall be handled with the help of a winch or crane or other mechanical means.

(2) The beams of any *hatch* in use for the *processes*, shall, if not removed be adequately secured to prevent their displacement.

**56. Signallers.**—When cargo is being loaded or unloaded by a fall at a *hatchway*, a signaller shall be employed, and where more than one fall is being worked at a *hatchway*, a separate signaller shall be employed to attend to each fall:

Provided that

(i) this regulation shall not apply, in cases where a barge lighter or other similar vessel is being loaded or unloaded if the driver of the crane or winch working the fall has a clear and unrestricted view of those parts of the hold where work is being carried on; and

(ii) where the inspector is of opinion that, owing to the nature of the crane or winch or other appliance in use or by reason of any special arrangements, the requirements of this regulation are not necessary for the safety of workers, he may by certificate in writing (which he may in his discretion revoke) suspend such requirements subject to such conditions as may be specified in such certificate.

**57. Transport of workers.**—When any worker has to proceed to or from a ship by water for the purpose of carrying on the *processes*, proper measures shall be taken to provide for his safe transport. Vessels used for this purpose shall be in charge of a competent person, shall not be overcrowded, and shall be properly equipped for safe navigation and maintained in good condition.

**57-A. Handling of caustic and corrosive substances.**—When during a process involving the handling of any caustic or corrosive substance there is likelihood of any spillage or leakage of the substance, no person shall be allowed to work without wearing suitable protective clothing or other equipment.

## PART VI

**58. Removal of fencing, safety appliances, etc.**—(1) No person shall, unless duly authorised or in case of any emergency remove or interfere with any fencing, gangway, gear, ladder, hatch covering, life-saving means or appliances, lights, marks, stages or other things whatsoever required by these Regulations to be provided. If removed, such things shall be restored at the end of the period during which their removal was authorised or at the end of the emergency as the case may be, by the persons last engaged in the work that necessitated such removal.

(2) The fencing required by Regulation 7 shall not be removed except to the extent and for the period reasonably necessary for carrying on the work of the dock or ship, or for repairing any fencing. If removed, it shall be restored forthwith at the end of that period by the persons engaged in the work that necessitated its removal.

**59. Workers to use proper means of access.**—Every worker shall use the means of access provided in accordance with Regulations 16, 17 and 18, and no person shall authorise or order another to use means of access other than those provided in accordance therewith.

**60. Persons not to go upon beams for adjusting gear.**—No person shall go upon the force and aft beams or thwartship beams for the purpose of adjusting the gear for lifting them on and off nor shall any person authorise or order another to do so.

#### PART VII

**61. Employers' responsibility for machinery, etc.**—No employer shall allow the use by workers of machinery or gear which does not comply with the Regulations in Part IV.

**62. Employers' responsibility for safe access, lighting, and handling of noxious and dangerous goods.**—If the persons whose duty it is to comply with Regulations 16, 17, 19 and 24, fail so to do, then it shall also be the duty of employers of the workers, for whose use the means of access, lights and protective equipment, as the case may be, are required, to comply with the said Regulations within the shortest time reasonably practicable after such failure.

#### PART VIII

**63. Abstracts to be affixed.**—The Abstracts of the Indian Dock Labourers Act, 1934, and of these Regulations which are to be affixed in accordance with section 8 of the said Act in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the *processes* are carried on, shall consist of sections 3(1), 3(2), 4(a), 4(b), 9, 10(2), of the said Act (Form X) and Regulations 2(g), 2(m), 3—5 and 7, 19, 33—55, 57—62 and Schedule II (Form XI).

#### SCHEDULE I—(Vide REGULATION 10)

Each first-aid box or cupboard shall contain at least:—

1. A copy of the first-aid leaflet issued by the Chief Adviser, Factories, Ministry of Labour, Government of India, New Delhi.
2. Forty-eight sterilised finger dressings.
3. Twenty-four sterilised hand or foot dressings.
4. Twenty sterilised large or body dressings.
5. Six small, four large and two extra large sterilised burn dressings.
6. Three half-ounce packets sterilised cotton wool.
7. A bottle of two per cent. tincture of iodine.
8. A bottle of sal volatile.
9. Eye drops, prepared as described in the first-aid leaflet.
10. Set of splints, cotton wool for padding.
11. Spool, ten yards by one inch, of adhesive plaster.
12. St. John Tourniquet.
13. Eighteen assorted roller bandages in envelopes.
14. Nine triangular bandages in envelopes.
15. Box of safety pins.
16. One pair surgical scissors.
17. Two ounce medicine glass.

Provided that where an Inspector is of the opinion that, owing to the number of first-aid boxes or cupboards provided and the availability of extra facilities, such as well equipped ambulance room or dispensary, the standard prescribed in the above Schedule may be relaxed, he may, subject to the confirmation by the Central Government, issue a certificate in writing (which he may at his discretion revoke), specifying the extent to which the relaxation is given.

#### SCHEDULE II

##### *Manner of Test and Examination before taking Lifting Machinery and Gear into use*

REGULATIONS 27 (1), 29 (1) and 30 (1).—(a) Every inch with the whole of the gear accessory thereto (including derricks, goose necks, eye plates, eye-bolts or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:—

Safe working load				Proof load
Up to 20 tons	...	...	...	25 per cent. in excess.
20—50 tons	...	...	...	5 tons in excess.
Over 50 tons	...	...	...	10 per cent. in excess.

The proof load shall be applied either (i) by hoisting moveable weights or (ii) by means of a spring or hydraulic balance or similar appliance, with the derrick at an angle to the horizontal which shall be stated in the certificate of the test. In the former case, after the moveable weights have been hoisted, the derrick shall be swung as far as possible in both directions. In the latter case the proof load shall be applied with the derrick swung as far as practicable first in one direction and then in the other.

(b) Every crane and other hoisting machine with its accessory gear shall be tested with a proof load which shall exceed the safe working load as follows:—

Safe working load				Proof load	
Up to 20 tons	...	...	...	...	25 per cent. in excess.
20—50 tons	...	...	...	...	5 tons in excess.
Over 50 tons	...	...	...	...	10 per cent. in excess.

The said proof load shall be hoisted and swung as far as possible in both directions. In the case of a jib-crane if the jib has a variable radius, it shall be tested with a proof load as defined above at the maximum and minimum radii of the jib. In the case of hydraulic cranes or hoists, where, owing to the limitation of pressure it is impossible to hoist a load 25 per cent. in excess of the safe working load, it shall be sufficient to hoist the greatest possible load.

(c) Every article of loose gear (whether it is accessory to a machine or not) shall be tested with a proof load at least equal to that shown against the article in the following table:—

Article of Gear				Proof load	
Pitched chains used with hand operated Pulley Blocks and Rings, Hooks, Shackles or Swivels permanently attached thereto				One and a half times the safe working load.	
Other chains	...	...	...	}	Twice the safe working load.
Other Rings	...	...	...		
Other Hooks	...	...	...		
Other Shackles	...	...	...		
Other Swivels	...	...	...		
Hand operated Pulley Blocks used with Pitched Chains and Rings, Hooks, Shackles or Swivels permanently attached thereto.				One and a half times the safe working load.	
<i>Other Pulley Blocks—</i>					
Single Sheave Blocks	...	...	...	Four times the safe working load.	
Multiple Sheave Block with safe working load up to and including 20 tons	...	...	...	Twice the safe working load.	
Multiple Sheave Block with safe working load over 2 tons up to and including 40 tons	...	...	...	Twenty tons in excess of the safe working load.	
Multiple Sheave Block with safe working load over 40 tons	...	...	...	One and a half times the safe working load.	

Provided that where an Inspector is of opinion that, owing to the size, design, construction, material or use of any such loose gear or class of such gear any of the above requirements are not necessary for the protection of workers, he may by certificate in writing (which he may in his discretion revoke), and subject to confirmation by the Central Government exempt such gear or class of gear from such requirements, subject to such conditions as may be stated in the certificate.

(d) After being tested as aforesaid, all machines with the whole of the gear accessory thereto and all loose gear shall be examined, the sheaves and the pins of the pulley block being removed for the purpose, to see that no part is injured or permanently deformed by the test.

(e) In the case of wire rope, a sample shall be tested to destruction and the safe working load shall not exceed one-fifth of the breaking load of the sample tested.

FORM I

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

Notice to the owner, master or officer-in-charge (name of ship).....

I hereby give notice that the processes of loading or unloading or coaling have been completed (\*for the time being) at the hatches named below, and that the hatches in question have been

↑ { left fenced or covered as required by Regulation 50.  
taken into use by you or on your behalf.

Hatchway	Deck
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Signature

Time.....

Date.....

\*Delete if not required.  
†Delete whichever is not required.

FORM II

Part I.—Annual Inspection and Quadrennial Thorough Examination of Derricks and Permanent Attachments (including Bridle Chains) to the Derricks, Masts and Decks

REGULATIONS 27(2)

If all the derrick booms and abovenamed gear are inspected or thoroughly examined on the same date it will be sufficient to enter in col. 1 "All derrick booms and abovenamed gear". If not, the parts which have been inspected or thoroughly examined on the dates stated must be clearly indicated.

"Thorough examination" means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined and if necessary for this purpose parts of the machines and gear must be dismantled.

QUADRENNIAL THOROUGH EXAMINATIONS

ANNUAL INSPECTIONS

Situation and description of gear inspected or examined with distinguishing number or mark) if any)	Number of certificate of test and examination of competent person	I certify that on the date to which I have appended my signature, the gear shown in col. 1 was thoroughly examined and no defects affecting its safe working condition were found other than those shown in col. 3  Date and Signature	Remarks (To be initialled and dated)	I certify that on the date to which I have appended my signature, the gear shown in col. 1 was inspected and no defects affecting its safe working condition were found other than those shown in col. 4  Date and Signature	Remarks (to be initialled and dated)
(1)	(2)	Date and Signature	(3)	(4)	



*Part II.—Annual Thorough Examination of Cranes, Winches, Hoists and Accessory Gear other than Derricks and Permanent Attachments thereto.*  
REGULATION 27(3)

Column 1 should show clearly the machines and gear which have been thoroughly examined. If e.g. all the winches (with their accessory gear) have been thoroughly examined, it will be sufficient to enter "all winches, blocks, shackles and other accessory gear".

"Thorough examination" means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined; and if necessary for this purpose, parts of the machines and gear must be dismantled.

Situation and description of machinery and gear examined, with distinguishing number or mark (if any)	Number of certificate of test and examination	I certify that on the date to which I have appended my signature the machinery and gear shown in column 1 was thoroughly examined and no defects affecting its safe working condition were found other than those shown in column 3		Remarks (to be initialled and dated)	
(1)	(2)	Date and signature	Date and signature	Date and signature	(3)

REGULATION 28

*Part III.—Annual Thorough Examination of Gear Exempted from Annealing. Namely:—*

- (1) Chains made of malleable cast iron;
- (2) Plate link chains;
- (3) Chains, rings, hooks, shackles and swivels made of steel;
- (4) Pitched chains;
- (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
- (6) Hooks and swivels having screw threaded parts or ball bearings or other case hardened parts;
- (7) Bordeaux connections.

"Thorough examination" means a visual examination, supplemented if necessary by other means carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined, and if necessary for this purpose, parts of the gear must be dismantled.

(1) Distinguishing number or mark	(2) Description of gear thoroughly examined	(3) Number of certificate of test and examination	I certify that on the date to which I have appended my signature, the gear described in cols. 1 and 2 was thoroughly examined by a competent person and, no defects affecting its safe working condition were found other than those shown in col. 4	Date and signature	Date and signature	Date and signature	(4) Remarks  (to be initialled and dated)

## REGULATION 29(2)

*Part IV.—Annealing of Chains, Rings, Hooks, Shackles and Swivels (other than those Exempted—See Part III)*

Half inch and smaller chains, rings, hooks, shackles and swivels in general use. { If used with lifting machinery driven by power, must be annealed once at least in every 6 months.

{ If used solely with lifting machinery worked by hand, must be annealed once at least in every 12 months.

{ If used with lifting machinery driven by power, must be annealed once at least in every 12 months.

Other chains, rings, hooks, shackles and swivels in general use. { If used solely with lifting machinery worked by hand, must be annealed once at least in every two years.

*Note.*—It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace heated to a temperature between 1100° and 1300° Fahrenheit or 600° or 700° Centigrade, for a period between 30 and 60 minutes.

(1) Distinguishing number or mark	(2) Description of gear annealed	(3) Number of certificate of test and examination	I certify that on the date to which I have appended my signature, the gear described in cols. 1 and 2 was effectually annealed under the supervision of a competent person, that after being so annealed every article was care- fully inspected and that no defects affecting its safe working condition were found other than those shown in column 4		Remarks  (to be initialled and dated)
			Date and signature	Date and signature	Date and signature  (4)

## FORM III

Test Certificate No.....

## THE INDIAN DOCK LABOURERS REGULATIONS, 1948

## REGULATION 27(1)

*Certificate of Test and Examination of Winches, Derricks and Accessory Gear Before  
Being taken into Use*

Situation and Description of Machinery and Gear with distinguishing Number or Mark (if any)	Angle to the horizontal of derrick boom while the load was applied	Proof load applied	Safe working load at the angle shown in col. 2
(1)	(2)	(3)	(4)
	Degrees	Tons	Tons

I certify that on the.....day of.....19..... the above machinery together with its accessory gear was tested by a competent person in the manner set forth overleaf; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in col. 4.

.....Signature.....Date.....

Qualification (See Note 3)

{ .....  
.....

## NOTES

1. *Column 1.*—If the machinery is on a ship, the name of the ship must be stated. Sufficient particulars must be given to identify the gear, for example, in the case of a winch or derrick, the number of the hold, etc., should be shown.

2. *Column 2.*—As a rule, a derrick should be tested with the boom at the lowest position at which it is to be used.

3. "Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

1. The manner of test and examination laid down in Schedule II to the Regulations is as follows:—

- (i) Every winch with the whole of the gear accessory thereto (including derricks, goose-necks, eye-plates, eye-bolts or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:—

Safe Working Load	Proof Load
up to 20 tons ... ..	25 per cent. in excess.
20 to 50 tons ... ..	5 tons in excess.
over 50 tons ... ..	10 per cent. in excess.

The proof load shall be applied either (i) by hoisting movable weights or (ii) by means of a spring or hydraulic balance or similar appliance, with the derrick at an angle to the horizontal which shall be stated in the certificate of the test. In the former case, after the movable weights have been hoisted, the derrick shall be swung as far as possible in both directions. In the latter case, the proof load shall be applied with the derrick swung as far as practicable first in one direction and then in the other.

(ii) After being tested, all machinery with the whole of the gear accessory thereto shall be examined to see whether any part has been injured or permanently deformed by the test.

2. The test and examination must be made by a competent person.

#### FORM IV

Test Certificate No. ....

#### THE INDIAN DOCK LABOURERS REGULATIONS, 1948

#### REGULATION 27(1)

#### *Certificate of Test and Examination of Cranes or Hoists and their Accessory Gear, Before Being taken into Use*

Situation and Description of Crane or Hoist with distinguishing Number or Mark (if any)	For Jib cranes, radius at which the proof load was applied	Proof load applied	Safe working load for jib cranes at radius shown in col. (2)
(1)	(2)	(3)	(4)
	Feet	Tons	Tons

I certify that on the.....day of.....19..... the above machinery together with its accessory gear was tested by a competent person in the manner set forth overleaf; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in col. 4.

Signature.....Date.....

Qualification (See Note 3)

{ .....  
.....

#### NOTES

1. *Column 1.*—Sufficient particulars must be given to identify the crane or hoist. If on a ship the name of the ship must be stated.

2. *Column 2.*—If the jib has a variable radius, proof loads must be applied at the maximum and minimum radii.

3. "Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

1. The manner of test and examination laid down in Schedule II to the Regulations for lifting machinery other than winches and derricks is as follows:—

(i) Every crane and other hoisting machine with its accessory gear shall be tested with a proof load which shall exceed the safe working load as follows:—

Safe Working Load				Proof Load
up to 20 tons	...	...	...	25 per cent. in excess.
20 to 50 tons	...	...	...	5 tons in excess.
over 50 tons	...	...	...	10 per cent. in excess.

The said proof load shall be hoisted and swung, as far as possible in both directions.

In the case of jib cranes, if the jib of the crane has a variable radius, it shall be tested with a proof load as defined above at the maximum and minimum radii of the jib. In the case of hydraulic cranes or hoists, where owing to the limitation of pressure it is impossible to hoist a load 25 per cent. in excess of the safe working load, it shall be sufficient to hoist the greatest possible load.

(ii) After being tested, each crane or hoist with the whole of the gear accessory thereto shall be examined to see whether any part has been injured or permanently deformed by the test.

2. The test and examination must be made by a competent person.

### FORM V

Test Certificate No.....

#### THE INDIAN DOCK LABOURERS REGULATIONS, 1948

#### REGULATION 29(I) AND (4)

*Certificate of Test and Examination of Chains, Rings, Hooks, Shackles, Swivels and Pulley Blocks, before being taken into Use*

Distinguishing Number or Mark	Description of Gear	Number tested	Date of test	Proof load applied	Safe working load
(1)	(2)	(3)	(4)	(5)	(6)
				Tons	Tons

(7) Was the gear examined by a competent person after the application of the proof load and found to have withstood the load without deformation and to be free from cracks, flaws or other defects? } .....

(8) Name and address of makers or suppliers } .....

I certify that the above particulars are correct.

Signature.....Date.....

Qualification (See note) { .....

#### NOTE

"Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

## FORM VI

Test Certificate No..

## THE INDIAN DOCK LABOURERS REGULATIONS, 1948

## REGULATION 30 (1) (b)

*Certificate of Test and Examination of Wire Rope before being taken into Use*

- (1) Name and address of the maker or supplier of the rope
- (2) (a) Circumference of rope in inches ... ..  
 (b) Number of strands ... ..  
 (c) Number of wires per strand ... ..  
 (d) Lay ... ..
- (3) Quality of Wire (e.g., Best Plough Steel) ...
- (4) (a) Date of test of sample of the rope ... ..  
 (b) Load at which this sample broke ... ..  
 (c) Safe working load, subject to any stated qualifying conditions, such as minimum pulley diameter, direct tensile load, etc. ... ..
- I certify that the above particulars are correct.

Signature.....Date.....

Qualification (See note).....

## NOTE

"Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

## FORM VII

Annealing Certificate No.....

## THE INDIAN DOCK LABOURERS REGULATIONS, 1948

## REGULATION 29 (2)

*Certificate of Annealing of Chains, Rings, Hooks, Shackles and Swivels*

Distinguishing Number or Mark	Description of Gear	Number of certificate of Test and examina- tion	Number annealed	Date of annealing	Defects found at careful inspection after annealing.
1	2	3	4	5	6

I certify that on the date shown in Col. 5, the gear described in cols. 1 to 4 was effectively annealed under my supervision; that after being so annealed every article was carefully inspected; and that no defects affecting its safe working condition were found other than those indicated in col. 6.

Signature.....Date.....

Qualification [See note(c)] { .....

NOTES

- (a) The requirement as to annealing and the competency of the person under whose supervision the annealing is carried out, are set forth overleaf.
- (b) It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace, heated to a temperature between 1,100° and 1,300° Fahrenheit or 600° and 700° Centigrade for a period between 30 and 60 minutes.
1. Under Regulation 29 (2) chains, rings, hooks, shackles and swivels in general use for hoisting or lowering must be effectually annealed at the following intervals:—

Class of Gear.	If used on lifting machinery driven by power.	If used solely on lifting machinery worked by hand.
Half inch and smaller gear ...	6 Months.	12 Months.
Other gear ... ..	12 Months.	2 years.

The annealing must be carried out under the supervision of a competent person.

2. The requirement of annealing does not apply to bridle chains attached to derricks or masts, and the following classes of gear have been exempted from annealing subject to the conditions stated below:—

- (a) Chains made of malleable cast iron.
- (b) Plate Link Chains;
- (c) Chains, rings, hooks, shackles and swivels made of steel;
- (d) Pitched chains;
- (e) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
- (f) Hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts;
- (g) Bordeaux connections.

These classes of gear have been exempted from annealing subject to the conditions that such gear shall be thoroughly examined by a competent person once at least in every twelve months and that, before the gear is subsequently taken into use, the prescribed certificates (Form VIII) of such examinations shall be entered in or attached to the prescribed register. (Form II).

3. "Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

FORM VIII

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 28

*Certificate of annual thorough examination of Gear exempted from Annealing, namely:*

- (1) Chains made of malleable cast iron;
- (2) Plate link chains;
- (3) Chains, rings, hooks, shackles and swivels made of steel;
- (4) Pitched chains;
- (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;



## FORM VI

Test Certificate No.....

## THE INDIAN DOCK LABOURERS REGULATIONS, 1948

## REGULATION 30 (1) (b)

*Certificate of Test and Examination of Wire Rope before being taken into Use*

- (1) Name and address of the maker or supplier of the rope  
 (2) (a) Circumference of rope in inches ...  
      (b) Number of strands ...  
      (c) Number of wires per strand ...  
      (d) Lay ...  
 (3) Quality of Wire (e.g., Best Plough Steel) ...  
 (4) (a) Date of test of sample of the rope ...  
      (b) Load at which this sample broke ...  
      (c) Safe working load, subject to any stated qualifying conditions, such as minimum pulley diameter, direct tensile load, etc. ...

I certify that the above particulars are correct.

Signature.....Date.....

Qualification (See note).....

## NOTE

"Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

## FORM VII

Annealing Certificate No.....

## THE INDIAN DOCK LABOURERS REGULATIONS, 1948

## REGULATION 29 (2)

*Certificate of Annealing of Chains, Rings, Hooks, Shackles and Swivels*

Distinguishing Number or Mark	Description of Gear	Number of certificate of Test and examina- tion	Number annealed	Date of annealing	Defects found at careful inspection after annealing.
1	2	3	4	5	6

I certify that on the date shown in Col. 5, the gear described in cols. 1 to 4 was effectively annealed under my supervision; that after being so annealed every article was carefully inspected; and that no defects affecting its safe working condition were found other than those indicated in col. 6.

Signature.....Date.....

Qualification [See note(c)] { .....

NOTES

- (a) The requirement as to annealing and the competency of the person under whose supervision the annealing is carried out, are set forth overleaf.
  - (b) It is recommended—though not required by the Regulations—that annealing should be carried out in a suitably constructed furnace, heated to a temperature between 1,100° and 1,300° Fahrenheit or 600° and 700° Centigrade for a period between 30 and 60 minutes.
1. Under Regulation 29 (2) chains, rings, hooks, shackles and swivels in general use for hoisting or lowering must be effectually annealed at the following intervals:—

Class of Gear.	If used on lifting machinery driven by power.	If used solely on lifting machinery worked by hand.
Half inch and smaller gear ...	6 Months.	12 Months.
Other gear ... ..	12 Months.	2 years.

The annealing must be carried out under the supervision of a competent person.

2. The requirement of annealing does not apply to bridle chains attached to derricks or masts, and the following classes of gear have been exempted from annealing subject to the conditions stated below:—

- (a) Chains made of malleable cast iron.
- (b) Plate Link Chains;
- (c) Chains, rings, hooks, shackles and swivels made of steel;
- (d) Pitched chains;
- (e) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
- (f) Hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts;
- (g) Bordeaux connections.

These classes of gear have been exempted from annealing subject to the conditions that such gear shall be thoroughly examined by a competent person once at least in every twelve months and that, before the gear is subsequently taken into use, the prescribed certificates (Form VIII) of such examinations shall be entered in or attached to the prescribed register. (Form II).

3. "Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

FORM VIII

THE INDIAN DOCK LABOURERS REGULATIONS, 1948

REGULATION 28

*Certificate of annual thorough examination of Gear exempted from Annealing, namely:*

- (1) Chains made of malleable castiron;
- (2) Plate link chains;
- (3) Chains, rings, hooks, shackles and swivels made of steel;
- (4) Pitched chains;
- (5) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;

(6) Hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts;

(7) Bordeaux connections.

Distinguishing Number or Mark	Description of Gear thoroughly examined (See paragraph 2 overleaf)	Number of certificate of test and examination	Remarks
1	2	3	4

I certify that on the ..... day of ..... 19..... the above gear was thoroughly examined by a competent person and that no defects affecting its safe working condition were found other than those indicated in col. 4.

Signature.....

Date.....

Qualification of competent person (see note) {

.....  
.....

#### NOTES

1. "Competent person" means an official of a workshop in India approved for any of the specified purposes in respect of testing, examination, annealing or certification of plant, lifting machinery or gear by the Central Government or by an authority nominated by the Central Government in that behalf, and any other person who is recognised as a 'competent person' for the purposes of the national regulations in force in other countries for the implementation of the Protection against Accidents (Dockers) Convention (Revised), 1932, adopted by the International Labour Conference.

For the purposes of 'thorough examination' of the gear carried on board a ship, the Master or the Chief Officer of the ship shall be deemed to be the 'Competent person'.

2. In pursuance of the first proviso to Regulation 29 (2), the following classes of gear have been exempted from the requirements of the said Regulation as to annealing:—

- (a) Chains made of malleable cast iron;
- (b) Plate link chains;
- (c) Chains, rings, hooks, shackles and swivels made of steel;
- (d) Pitched chains;
- (e) Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines;
- (f) Hooks and swivels having screw-threaded parts or ball bearings or other case-hardened parts;
- (g) Bordeaux connections,

subject to the conditions that such gear shall be thoroughly examined by a competent person once at least in every twelve months, and certificates in the prescribed form and containing the prescribed particulars with regard to such examinations shall be obtained and entered in or attached to the prescribed register (Form II) before the gear to which the certificate refers is subsequently taken into use in connection with the processes.

3. For the purposes of this regulation thorough examination means a visual examination, supplemented if necessary by other means, carried out as carefully as the conditions permit, in order to arrive at a reliable conclusion as to the safety of the parts examined; and if necessary for the purpose, parts of the gear must be dismantled.

## FORM IX

## THE INDIAN DOCK LABOURERS REGULATIONS, 1948

*Inspector's Notice on Inspection of Premises, Ships, Lifting Machinery or Gear*

Inspector's Notice to the person having the general management and control of the premises, or the Owner, Master, Officer-in-Charge or Agents of the Ship, or the person, who, by himself, his agents or his employees, carries on the process, as the case may be.

Name of premises, ship, lifting machinery or gear	Where situated/lying/used	Port of Registry of ship	Official Number (if any) of ship

Sir,

An inspection of the above-named premises/ship/lifting machinery/gear having been made on ....., I have to inform you that the requirements mentioned below must be complied with within ..... days of the receipt of this notice.

On hearing from you that the requirements have been complied with, the premises/ship/lifting machinery/gear will again be visited with a view to the inspection being completed.

No.....

Dated at..... this ..... day of ..... 19 ..

Inspector under the  
Indian Dock Labourers Act, 1934.

## REQUIREMENTS

On compliance with all or any of the requirements, the Inspector should be informed in the manner prescribed overleaf, of the date and place at which the Premises/Ship/Lifting Machinery/Gear can be re-inspected.

Sir,

The requirements notified by you have been effectively fulfilled. The premises/ship/lifting machinery/gear will be ready for inspection on the date and place named below:—

Date of Inspection	Place

Dated at..... this ..... day of ..... 19 ..

Person having the general management and control of the premises/Owner, Master, Officer-in-charge or Agents of the ship/person who by himself, his agents, or his employees carries on the process.

To

The Inspector under the Indian Dock Labourers Act, 1934.

## FORM X

## ABSTRACT OF THE INDIAN DOCK LABOURERS ACT, 1934

(INDIA ACT NO. XIX OF 1934)

(SEE REGULATION 63)

3. (1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex-officio* within the limits of their charges.

4. Subject to any rules made in this behalf under section 6, an Inspector may within the local limits for which he is appointed,—

(a) enter, with such assistance (if any) as he thinks fit, any premises or ship where the processes are carried on;

(b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act;

9. Any person who—

(a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or

(b) unless duly authorised, or in case of necessity, removes any fencing gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or

(c) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with fine which may extend to five hundred rupees.

10. (2) No prosecution for any offence under this Act or the Regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

## FORM XI

## ABSTRACT OF THE INDIAN DOCK LABOURERS REGULATIONS, 1948

## PART I

## 2. Definitions

(g) "process" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it;

(m) "worker" means any person employed in the processes;

3. Powers of Inspectors.—(1) An Inspector may, with such assistance (if any) as he thinks fit,—

(i) enter, inspect and examine at any time by day or night any premises or ship where the processes are carried on;

- (ii) make such examination of the premises or ship and the machinery and gear, fixed or loose, used in the processes as he may deem necessary for carrying out the purposes of the Act;
- (iii) require the production of any registers, certificates, notices and documents required to be kept in pursuance of the Act and Regulations and inspect, examine and copy any of them;
- (iv) examine and take on the spot or otherwise such evidence of any person as he may deem necessary.

(2) The person having the general management and control of the premises and the owner, master, officer-in-charge or agents of the ship as the case may be shall furnish such means as may be required by an Inspector for entry, inspection, examination, inquiry, or otherwise for the exercise of his powers under the Act and Regulations in relation to that ship or premises.

**4. Duties of Inspectors.**—(a) An Inspector shall at each inspection of any premises or ship satisfy himself that the provisions made in the Act and Regulations are fully observed.

(b) An Inspector shall hold an enquiry into the causes of any accident which he has reason to believe was the result of the collapse or failure of lifting machinery or non-compliance with any of the provisions of the Act and Regulations.

(c) An Inspector shall ascertain at each inspection how far any defects disclosed at a previous inspection have been rectified and how far any orders previously issued by him have been complied with. His findings and any defects which may come to light during the current inspection, together with any orders passed by him under the Act or these Regulations shall be recorded in an Inspection Register maintained in accordance with clause (d) below.

An extract from the record including the orders of the Inspector together with any remarks he may wish to make or any defects found to exist in such ship, premises, lifting machinery or gear that he may wish to bring to notice shall be sent to the owner, master, officer-in-charge or agents of the ship or the person in general management and control of the premises, or the person who by himself, his agents or his employees carries on the process, as the case may be in Form 'IX'.

(d) The Inspector shall keep and properly maintain a record of his inspections in a separate register specially maintained for the purpose.

**5. Penalties.**—Whoever being a person, whose duty it is to comply with any of these Regulations commits a breach of such Regulations shall be punishable with fine which may extend, in the case of breach of Regulations 59 and 61 to Rs. 200, and in any other case to Rs. 500, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

## PART II

\* \* \* \* \*

**7. Fencing of working places and approaches.**—(1) Every regular approach over a dock, wharf or quay which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers.

(2) In particular, the following parts shall, as far as is practicable having regard to the traffic and working be securely fenced, so that the height of the fence shall be in no place less than two feet six inches, and the fencing shall be maintained in good condition ready for use :—

- (a) all breaks, dangerous corners, and other dangerous parts or edges of a dock, wharf or quay;
- (b) both sides of such footways over bridges, caissons, and dock gates as are in general use by workers and each side of the entrance at each end of such footway for a sufficient distance not exceeding five yards:

Provided that in the case of fences which were constructed before the date of promulgation of these regulations, it shall be sufficient if the height of the fence is in no place less than two feet three inches.

\* \* \* \* \*

## PART III

\* \* \* \* \*

**19. Lighting for processes on ships.**—When the processes are being carried

- (a) the places in the hold and on the decks where work is being carried on,
- (b) the means of access provided in pursuance of Regulations 16 and 17, and
- (c) all parts of the ship to which workers may be required to proceed in the course of their employment,

shall be efficiently lighted, due regard being had to the safety of the ship and cargo, of all workers and of navigation of other vessels and to the provisions of any law and of any rules, regulations, orders or bye-laws having the force of law.

\* \* \* \* \*

## PART IV

**33. Maintenance and production of register and certificates.**—The register and the certificates attached to the register—

- (a) shall be kept on the premises unless some other place has been approved in writing by an Inspector;
- (b) shall be produced on demand before an Inspector; and
- (c) shall be retained for at least four years after the date of the last entry.

**34. Machinery, etc., not to be brought into use until the necessary entries are made in the register.**—No machinery, chain rope or other gear in respect of which an entry is required to be made in the register in Form II, or in respect of which a certificate is required to be attached to such register whether as an alternative to an entry in Form II or otherwise, or in respect of which a certificate is required to be prepared, shall be used unless and until the required entry has been made, or the required certificate has been so attached, or prepared, as the case may be.

**35. Pulley blocks.**—No pulley block shall be used in hoisting or lowering unless the safe working load is clearly stamped upon it.

**36. Safe working load for chain and wire rope slings.**—Means shall be provided to enable any person using a chain or wire rope sling to ascertain the safe working load for such chain or wire rope sling under such conditions as it may be used. Such means shall consist—

- (a) as regards chain slings, of marking the safe working load in plain figures or letters upon the sling or upon a tablet or ring of durable material attached securely thereto, and
- (b) as regards wire rope slings, of either the means specified in clause (a) or a notice or notices, so exhibited as to be easily read by any person concerned, stating the safe working loads for the various sizes of wire-ropes slings used.

**37. Maintenance of chains.**—Chains shall not be shortened by tying knots in them; and suitable packing shall be provided to prevent the links coming into contact, with sharp edges of loads of hard material.

**38. Fencing of motors, etc.**—All motors, cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their position and construction they are equally safe to every worker as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship and without infringing any rules, regulations, orders or bye-laws, having the force of law.

**39. Precautions against accidental fall of loads.**—(1) Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being raised or lowered; in particular, the lever controlling the link motion reversing gear of a crane or winch shall be provided with a suitable spring or other locking arrangement.

(2) The end of a wire rope used for hoisting or lowering shall be securely attached to the winding drum of the winch by means of a clamp or other suitable means.

**40. Fencing of and access to cranes.**—The driver's platform on every crane or tip driven by mechanical power shall be securely fenced and shall be provided with safe means of access. In particular, where access is by a ladder—

- (a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handhold shall be provided;

- (b) the landing place on the platform shall be maintained free from obstruction;
- (c) in cases where the ladder is vertical and exceeds thirty feet in height a resting place shall be provided approximately midway between the platform and the foot of the ladder.

**41. Safe working load for cranes, etc.**—Every crane and derrick shall have the safe working load plainly marked upon it, and every shore crane if so constructed that the safe working load may be varied by the raising or lowering of the jib or otherwise, shall have attached to it an automatic indicator of safe working loads, provided that in cases where the jib may be raised or lowered, provision on the crane of a table showing the safe working loads at the corresponding inclinations of radii of the jib shall be considered sufficient compliance.

**42. Steam.**—Adequate measures shall be taken to prevent exhaust steam from, and so far as is practicable live steam to, any crane or winch obscuring any part of the gangways, stages, wharf, or quay where any person is employed in the *processes*.

**43. Derricks.**—Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support.

#### PART V

**44. Responsibilities.**—It shall be the duty of every person who by himself, his agents, or employees carries on the processes and of all agents, employees and workers employed by him in the processes to comply with Regulations 45 to 57-A.

Provided that where the processes are carried on by a stevedore or other person other than the owner of the ship, it shall be the duty of the owner, master or officer-in-charge of the ship to comply with Regulation 50 so far as it concerns—

(1) any hatch not taken over by the said stevedore or other person for the purpose of the processes, and

(2) any hatch which, after having been taken over by the said stevedore or other person for the purpose of the processes—

(i) has been reported by written notice in Form I to the owner, master or officer-in-charge of the ship, by or on behalf of the said stevedore or other person as being a hatch at which the processes have been completed or completed for the time being and

(ii) either has been left by the said stevedore or other person fenced or covered as required by Regulation 50 or has been taken into use by or on behalf of the owner of the ship, and in either case has been so reported by such written notice as aforesaid.

It shall be the duty of the owner, master or officer-in-charge of the ship to give immediately a written acknowledgment in Form I of such written notice as aforesaid.

**45. Escape from holds, etc.**—Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on tween decks in dealing with coal or other bulk cargo.

**45-A. Access to and from undecked vessels.**—When in a vessel, which is not decked, workers have to carry on the processes in a hold, the depth of which exceeds 5 feet, there shall be safe means of access to and from the hold for their use, and when a ladder is to be used in the hold, it shall be equipped at the top with hooks or other means for firmly securing it.

**46. Loading of lifting machinery.**—(1) *No lifting machinery*, chains or other lifting appliance shall be loaded beyond the safe working load:

Provided that a crane may be loaded beyond the safe working load in exceptional cases to such extent and subject to such conditions as may be approved by the engineer in charge or other competent person, if on each occasion—

- (a) the written permission of the owner or his responsible agent has been obtained, and
- (b) a record of the overload is kept:

Provided also that, where the load upon a single sheave, *pulley block* is attached to the *pulley block* instead of to the chain or rope passing round the sheave, the load on the *pulley block* shall be deemed for the purpose of this Regulation to be half the actual load.

(2) No load shall be left suspended from a crane, winch or other machine unless there is a competent person actually in charge of the machine while the load is so left.

**47. Drivers of cranes, etc.**—No person under 18 years of age and no person who is not sufficiently competent and reliable shall be employed as driver of a crane or winch, whether



driven by mechanical power or otherwise, or to give signals to a driver or to attend to cargo falls on winch-ends or winch-bodies.

**48. Passengers to be kept clear.**—Where goods are placed on a wharf or quay—

- (a) a clear passage leading to the means of access to the ship required by Regulation 11 shall be maintained on the wharf or quay; and
- (b) if any space is left along the edge of the wharf or quay, it shall be at least three feet wide and clear of all obstructions other than fixed structures, plant and appliances in use.

**49. Deck and cargo stages.**—(1) No deck-stage or cargo-stage shall be used in the *processes* unless it is substantially and firmly constructed and adequately supported and, where necessary, securely fastened.

(2) No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

(3) Any stage which is slippery shall be made safe by the use of sand or otherwise.

**50. Hatches not in use.**—(1) If any *hatch* of a hold accessible to any worker and exceeding five feet in depth, measured from the level of the deck in which the *hatch* is situated to the bottom of the hold, is not in use for the passage of goods, coal or other material, or for trimming, and the coamings are less than two feet six inches in height, such hatch shall either be fenced to a height of three feet or be securely covered and similar measures shall be taken, when necessary to protect all other openings in a deck which might be dangerous to the workers.

Provided that this requirement shall not apply (i) to vessels not exceeding 200 tons net registered tonnage which have only one *hatchway*, and (ii) to any vessels during meal times or other short interruptions of work during the period of employment.

(2) *Hatch* coverings shall not be used in the construction of deck or cargo stages, or for any other purpose which may expose them to damage.

(3) *Hatch* coverings shall be replaced on the hatches in the positions indicated by the markings made thereon in pursuance of Regulation 21.

**51. Handling at intermediate decks.**—No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck unless either the *hatch* at that deck is securely covered or a secure landing platform of a width not less than that of one section of *hatch* coverings has been placed across it:

Provided that this Regulation shall not apply to any process of unloading the whole of which will be completed within a period of half an hour.

**52. Hooks for bales, etc.**—When the working space in a hold is confined to the square of the hatch, hooks shall not be made fast in the bands of fastenings of bales of cotton, wool, cork, gunny bags or other similar goods, nor shall can-hooks be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe.

Nothing in this Regulation shall apply to breaking out or making up slings.

**53. Skeleton decks.**—When work is proceeding on any skeleton deck adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of two feet of such deck.

**54. Stowing and unstowing.**—Where stacking, unstacking, stowing or unstowing of cargo or handling, in connection therewith cannot be safely carried out unaided reasonable measures to guard against accident shall be taken by shoring or otherwise.

**55. Hatches in use.**—(1) All hatch covers exceeding 125 lbs. in weight and all beams of any hatch in use shall be handled with the help of a winch or crane or other mechanical means.

(2) The beams of any *hatch* in use for the *process*, shall if not removed be adequately secured to prevent their displacement.

\* \* \* \* \*

**57. Transport of workers.**—When any worker has to proceed to or from a ship by water for the purpose of carrying on the *processes* proper measures shall be taken to provide for his safe transport. Vessels used for this purpose shall be in charge of a competent person, shall not be over-crowded and shall be properly equipped for safe navigation and maintained in good condition.

**57-A. Handling of caustic and corrosive substances.**—When during a process involving the handling of any caustic or corrosive substance there is likelihood of any spillage or leakage of the substance, no person shall be allowed to work without wearing suitable protective clothing or other equipment.

## PART VI

**58. Removal of fencing, safety appliances, etc.**—(1) No person shall unless duly authorised or in case of any emergency remove or interfere with any fencing, gangway, gear, ladder, hatch, covering, life-saving means or appliances, lights, marks stages or other things whatsoever required by these Regulations to be provided. If removed, such things shall be restored at the end of the period during which their removal was authorised or at the end of the emergency as the case may be by the persons last engaged in the work that necessitated such removal.

(2) The fencing required by Regulation 7 shall not be removed except to the extent and for the period reasonably necessary for carrying on the work of the dock or ship, or for repairing any fencing. If removed, it shall be restored forthwith at the end of that period by the persons engaged in the work that necessitated its removal.

**59. Workers to use proper means of access.**—Every worker shall use the means of access provided in accordance with Regulations 16, 17 and 18, and no person shall authorise or order another to use means of access other than those provided in accordance therewith.

**60. Persons not to go upon beams for adjusting gear.**—No person shall go upon the fore and aft beams or thwart-ship beams for the purpose of adjusting the gear for lifting them on and off nor shall any person authorise or order another to do so.

## PART VII

**61. Employers' responsibility for machinery, etc.**—No employer shall allow the use by workers of machinery or gear which does not comply with the Regulations in Part IV.

**62. Employers' responsibility for safe access, lighting and handling of noxious and dangerous goods.**—If the persons whose duty it is to comply with Regulations 16, 17, 19 and 24, fail so to do, then it shall also be the duty of the employers of the workers, for whose use the means of access, lights and protective equipment, as the case may be, are required, to comply with the said Regulations within the shortest time reasonably practicable after such failure.

\* \* \* \* \*

### SCHEDULE II—MANNER OF TEST AND EXAMINATION BEFORE TAKING LIFTING MACHINERY AND GEAR INTO USE

**REGULATIONS 27 (1), 29 (1) AND 30 (1).**—(a) Every winch with the whole of the gear accessory thereto (including derricks, goose necks, eye plates, eye-bolts or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:—

<i>Safe working load</i>				<i>Proof load</i>
Upto 20 tons	...	...	...	25 per cent. in excess.
20—50 tons	...	...	...	5 tons in excess.
Over 50 tons	...	...	...	10 per cent. in excess.

The proof load shall be applied either (i) by hoisting movable weights or (ii) by means of a spring or hydraulic balance or similar appliance, with the derrick, at an angle to the horizontal which shall be stated in the certificate of the test. In the former case, after the movable weights have been hoisted, the derrick shall be swung as far as possible in both directions. In the latter case, the proof load shall be applied with the derrick swung as far as practicable first in one direction and then in the other.

(b) Every crane and other hoisting machine with its necessary gear shall be tested with a proof load which shall exceed the safe working load as follows:—

<i>Safe working load</i>			<i>Proof load</i>
Upto 20 tons ...	...	...	25 per cent. in excess.
20—50 tons ...	...	...	5 tons in excess.
Over 50 tons ...	...	...	10 per cent. in excess.

The said proof load shall be hoisted and swung as far as possible in both directions. In the case of a jib-crane if the jib has a variable radius, it shall be tested with a proof load as defined above at the maximum and minimum radii of the jib. In the case of hydraulic cranes or hoists, where, owing to the limitation of pressure, it is impossible to hoist a load 25 per cent. in excess of the safe working load, it shall be sufficient to hoist the greatest possible load.

(c) Every article of loose gear (whether it is accessory to a machine or not) shall be tested with a proof load at least equal to that shown against the article in the following table:—

<i>Article of Gear</i>	<i>Proof load</i>
Pitched chains used with hand operated Pulley Blocks and Rings, Hooks, Shackles or Swivels permanently attached thereto.	One and a half times the safe working load.
Other Chains Other Rings Other Hooks Other Shackles Other Swivels	Twice the safe working load.
Hand operated Pulley Blocks used with pitched chains and Rings, Hooks, Shackles or Swivels permanently attached thereto.	One and a half times the safe working load.
Other Pulley Blocks— Single Sheave Block	Four times the safe working load.
Multiple Sheave Block with safe working load up to and including 20 tons.	Twice the safe working load.
Multiple Sheave Block with safe working load over 20 tons up to and including 40 tons.	Twenty tons in excess of the safe working load.
Multiple Sheave Block with the safe working load over 40 tons.	One and a half times the safe working load.

Provided that where an Inspector is of opinion that, owing to the size, design, construction, material or use of any such loose gear or class of such gear, any of the above requirements are not necessary for the protection of workers, he may by certificate in writing (which he may in his discretion revoke), and subject to confirmation by the Central Government exempt such gear or class of gear from such requirement, subject to such conditions as may be stated in the certificate.

(d) After being tested as aforesaid, all machines with the whole of the gear accessory thereto and all loose gear shall be examined, the sheaves and the pins of the pulley block being removed for the purpose, to see that no part is injured or permanently deformed by the test.

(e) In the case of wire rope a sample shall be tested to destruction and the safe working load shall not exceed one-fifth of the breaking load of the sample tested.

FORM XII

To be sent to Inspector, Dock Safety  
Address.....

REPORT OF ACCIDENT OR DANGEROUS OCCURRENCE

(Required by Regulation 12 of the Indian Dock Labourers Regulations, 1948  
pursuance of Section 5 (1) (i) of the Indian Dock Labourers Act, 1934)

(See Instructions overleaf).

1. Name of Employer.....
2. Address of Employer.....
3. Ship, or other exact place where accident or dangerous occurrence happened.
4. Date and hour of accident or dangerous occurrence.....
5. (1) Name and address of injured person.....  
Sex..... Age..... Occupation.....  
(2) Nature and extent of injuries (e.g., fatal, loss of finger, fracture of leg)....  
(3) By whom treatment was given.....  
(4) Is injured person likely to be disabled for more than 48 hours.....
6. Hour at which injured started work.....
7. Cause of accident or dangerous occurrence.....
8. Accident:  
(a) If caused by machinery, state:—  
(i) Name of machine and part causing accident.....  
(ii) If moved by mechanical power at the time.....  
(b) State exactly what injured person was doing.....
9. Dangerous occurrence:  
(a) Nature of collapse or failure of lifting machinery.....  
(b) Nature of breakage of rope, chain or other appliances.....  
(c) Nature of collapse or failure of means of access to or from a ship.....

Signature.

Date.....

(To be filled in by Inspector)

Port.....

Date of Receipt.....

Accident/Dangerous Occurrence No.....

Causation.....

Sex.....

Remarks.....

INSTRUCTIONS

REPORTS OF ACCIDENTS AND DANGEROUS OCCURRENCES

- (1) Whenever any accident occurs which either—  
(a) causes loss of life to a worker, or  
(b) causes such severe injury to a worker that there is no reasonable hope that he will be able to return to work within 48 hours,  
notice of the accident shall forthwith be sent by telegram, telephone or special messenger within four hours of the occurrence, to  
(i) the Inspector notified for the purpose:  
(ii) the relatives of  
(a) the deceased person, in case of fatal accident; and  
(b) the injured person, in case the injury is of such a serious nature that the worker is likely to be prevented from returning to duty within ten days:  
and

(iii) in the case of fatal accidents only:

- (a) the officer-in-charge of the nearest Police Station, and
- (b) the District Magistrate or if the District Magistrate by order so directs the Sub-Divisional Magistrate:

Provided that a notice of any accident of which notice is sent in accordance with the requirements of the Explosives Act, 1884, or the Petroleum Act, 1934, need not be sent in accordance with the requirements of this Regulation.

In cases of sub-clause (b) of clause (1) above, the injured person shall be given first-aid and thereafter immediately conveyed to a hospital or other place of treatment.

(2) Where any accident causing disablement is notified under this Regulation and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the authorities mentioned in clause (1) immediately the death occurs.

(3) The following classes of dangerous occurrences shall forthwith be reported to the Inspector in the manner prescribed in clause (1), whether personal injury or disablement is caused or not:—

- (i) collapse or failure of lifting machinery.
- (ii) breakages of ropes, chains or other appliances used in raising or lowering of persons or goods; and
- (iii) collapse or failure of means of access to or from a ship.

(4) The notice so given under clause (1) or clause (3) shall be confirmed within 48 hours of the occurrence by sending a written report to the Inspector in Form XII.

#### DATE OF ENFORCEMENT

**Notification No. Fac. 38 (I) A dated the 10th January, 1948.**—In pursuance of sub-section (3) of section 1 of the Indian Dock Labourers Act, 1934 (XIX of 1934), the Central Government is pleased to appoint the 10th February, 1948 as the date on which the said Act shall come into force.

#### APPOINTMENT OF INSPECTORS

**Notification No. Fac. 38 (I) dated the 26th January, 1948.**—In exercise of the powers conferred by sub-section (1) of section 3 of the Indian Dock Labourers Act, 1934 (XIX of 1934), the Governor General is pleased to appoint the undermentioned officers to be Inspectors for the purposes of the said Act in respect of the ports specified against each, namely:—

##### *Inspectors*

##### *Ports*

Chief Adviser, Factories, Ministry of Labour )

Deputy Chief Advisers, Factories, Ministry of Labour

Calcutta, Bombay, Madras,  
Cochin and Vizagapatam.

Inspector (Technical), Ministry of Labour.

Inspector, Dock Safety, Ministry of Labour, Calcutta

Calcutta.

Inspector, Dock Safety, Ministry of Labour, Bombay

Bombay.

Inspector, Dock Safety, Ministry of Labour, Madras

Madras, Cochin and Vizagapatam.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948 (IX OF 1948)

#### Statement of Objects and Reasons.<sup>1</sup>

The demand for dock labour is intermittent depending on the arrival and departure of vessels, the size and nature of their cargo as well as seasonal and cyclical fluctuations. In the ports, therefore, there is usually labour in excess of minimum requirements and the general tendency on the part of employers is to ensure larger reserves than necessary in order to provide ample margin against emergencies. The main problem connected with dock labour is to devise measures so as to reduce the hardship due to unemployment or under-employment to the utmost extent possible. The Royal Commission on Labour recommended as far back as 1931 that a policy of decasualisation should be adopted "with a view to regulate the number of dock labourers in accordance with requirements and to ensure that the distribution of employment depends not on the caprice of intermediaries, but on a system which as far as possible gives all efficient men an equal share." Government had accepted the recommendation and efforts were made to induce Port Trusts to formulate necessary schemes of decasualisation. The voluntary attempt was not, however,

<sup>1</sup> Gazette of India, 1947, Part V, page 432.

a success and a scheme for compulsory registration was formulated in 1939 but was not proceeded with due to the outbreak of war.

2. Although the operation of certain measures introduced during the war, such as rationing and organised distribution of food supplies, facilitated the registration of labour at major ports, the problem, in the main, has remained unsolved. It is now proposed to undertake legislation giving power to the Central Government in respect of major ports and to the Provincial Governments in respect of other ports, to frame a scheme for the registration of dock workers with a view to securing regularity of employment and for regulating the employment of dock workers whether registered or not, in a port. In particular, the scheme may provide *inter alia* for the terms and conditions of employment of workers whether registered or not, including rates of remuneration, hours of work and conditions as to paid holidays. It may also provide for payment to registered workers of minimum pay for days on which work may not be available to them and for their training and welfare.

3. Provision is also made in the Bill for the constitution of an Advisory Committee consisting of not more than 15 members representing the Government, the dock workers and the employers of dock workers in equal proportion. In the framing and administration of the schemes the appropriate Government will take the advice of this Committee.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) AMENDMENT ACT, 1949 (XXIX OF 1949)

#### Statement of Objects and Reasons.<sup>2</sup>

A scheme made by the appropriate Government under the Dock Workers (Regulation of Employment) Act, 1948, may *inter alia*, provide, "for constituting or prescribing the authority to be responsible for the administration of the scheme." The constituted authority in the discharge of its functions may have to borrow or raise money and issue debentures, etc., for the purpose of securing any debt or mortgaging or charging any of its property and it is therefore desirable that the authority should be clothed with a corporate status in certain cases. As the Act does not in express terms confer power to create a Corporation or to give corporate status to any body functioning under it, a specific amendment of the Act is being undertaken for this purpose.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948 (IX OF 1948)

#### Arrangement of Sections

1. Short title and extent.
2. Definitions.
3. Scheme for ensuring regular employment of workers.
4. Making, variation and revocation of schemes.
5. Advisory Committees.
6. Inspectors.
7. Cognizance of offences.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948 (IX OF 1948)<sup>1</sup>

*An Act to provide for regulating the employment of dock workers.*

[4th March, 1948]

Whereas it is expedient to provide for regulating the employment of dock workers;

It is hereby enacted as follows:—

1. **Short title and extent.**—(1) This Act may be called the Dock Workers (Regulation of Employment) Act, 1948.

<sup>2</sup> Gazette of India, 1949, Vol. V, page 84.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, Part V, dated 22nd November, 1947 p. 432; see also p. 702 ante and for the Report of the Select Committee, see Gazette of India, 1948, Part V, page 3.

(iii) in the case of fatal accidents only:

(a) the officer-in-charge of the nearest Police Station, and

(b) the District Magistrate or if the District Magistrate by order so directs the Sub-Divisional Magistrate:

Provided that a notice of any accident of which notice is sent in accordance with the requirements of the Explosives Act, 1884, or the Petroleum Act, 1934, need not be sent in accordance with the requirements of this Regulation.

In cases of sub-clause (b) of clause (1) above, the injured person shall be given first-aid and thereafter immediately conveyed to a hospital or other place of treatment.

(2) Where any accident causing disablement is notified under this Regulation and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the authorities mentioned in clause (1) immediately the death occurs.

(3) The following classes of dangerous occurrences shall forthwith be reported to the Inspector in the manner prescribed in clause (1), whether personal injury or disablement is caused or not:—

(i) collapse or failure of lifting machinery.

(ii) breakages of ropes, chains or other appliances used in raising or lowering of persons or goods; and

(iii) collapse or failure of means of access to or from a ship.

(4) The notice so given under clause (1) or clause (3) shall be confirmed within 48 hours of the occurrence by sending a written report to the Inspector in Form XII.

#### DATE OF ENFORCEMENT

**Notification No. Fac. 38(I)A dated the 10th January, 1948.**—In pursuance of sub-section (3) of section 1 of the Indian Dock Labourers Act, 1934 (XIX of 1934), the Central Government is pleased to appoint the 10th February, 1948 as the date on which the said Act shall come into force.

#### APPOINTMENT OF INSPECTORS

**Notification No. Fac. 38 (I) dated the 26th January, 1948.**—In exercise of the powers conferred by sub-section (1) of section 3 of the Indian Dock Labourers Act, 1934 (XIX of 1934), the Governor General is pleased to appoint the undermentioned officers to be Inspectors for the purposes of the said Act in respect of the ports specified against each, namely:—

##### *Inspectors*

##### *Ports*

Chief Adviser, Factories, Ministry of Labour

Deputy Chief Advisers, Factories, Ministry of Labour

Inspector (Technical), Ministry of Labour.

Inspector, Dock Safety, Ministry of Labour, Calcutta

Inspector, Dock Safety, Ministry of Labour, Bombay

Inspector, Dock Safety, Ministry of Labour, Madras

Calcutta, Bombay, Madras,  
Cochin and Vizagapatam.

Calcutta.

Bombay.

Madras, Cochin and Vizagapatam.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948 (IX OF 1948)

#### Statement of Objects and Reasons.<sup>1</sup>

The demand for dock labour is intermittent depending on the arrival and departure of vessels, the size and nature of their cargo as well as seasonal and cyclical fluctuations. In the ports, therefore, there is usually labour in excess of minimum requirements and the general tendency on the part of employers is to ensure larger reserves than necessary in order to provide ample margin against emergencies. The main problem connected with dock labour is to devise measures so as to reduce the hardship due to unemployment or under-employment to the utmost extent possible. The Royal Commission on Labour recommended as far back as 1931 that a policy of decasualisation should be adopted "with a view to regulate the number of dock labourers in accordance with requirements and to ensure that the distribution of employment depends not on the caprice of intermediaries, but on a system which as far as possible gives all efficient men an equal share." Government had accepted the recommendation and efforts were made to induce Port Trusts to formulate necessary schemes of decasualisation. The voluntary attempt was not, however,

<sup>1</sup> Gazette of India, 1947, Part V, page 432.

a success and a scheme for compulsory registration was formulated in 1939 but was not proceeded with due to the outbreak of war.

2. Although the operation of certain measures introduced during the war, such as rationing and organised distribution of food supplies, facilitated the registration of labour at major ports, the problem, in the main, has remained unsolved. It is now proposed to undertake legislation giving power to the Central Government in respect of major ports and to the Provincial Governments in respect of other ports, to frame a scheme for the registration of dock workers with a view to securing regularity of employment and for regulating the employment of dock workers whether registered or not, in a port. In particular, the scheme may provide *inter alia* for the terms and conditions of employment of workers whether registered or not, including rates of remuneration, hours of work and conditions as to paid holidays. It may also provide for payment to registered workers of minimum pay for days on which work may not be available to them and for their training and welfare.

3. Provision is also made in the Bill for the constitution of an Advisory Committee consisting of not more than 15 members representing the Government, the dock workers and the employers of dock workers in equal proportion. In the framing and administration of the schemes the appropriate Government will take the advice of this Committee.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) AMENDMENT ACT, 1949 (XXIX OF 1949)

#### Statement of Objects and Reasons.<sup>2</sup>

A scheme made by the appropriate Government under the Dock Workers (Regulation of Employment) Act, 1948, may *inter alia*, provide, "for constituting or prescribing the authority to be responsible for the administration of the scheme." The constituted authority in the discharge of its functions may have to borrow or raise money and issue debentures, etc., for the purpose of securing any debt or mortgaging or charging any of its property and it is therefore desirable that the authority should be clothed with a corporate status in certain cases. As the Act does not in express terms confer power to create a Corporation or to give corporate status to any body functioning under it, a specific amendment of the Act is being undertaken for this purpose.

### DOCK WORKERS (REGULATION OF EMPLOYMENT) ACT, 1948 (IX OF 1948)

#### Arrangement of Sections

1. Short title and extent.
2. Definitions.
3. Scheme for ensuring regular employment of workers.
4. Making, variation and revocation of schemes.
5. Advisory Committees.
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*An Act to provide for regulating the employment of dock workers.*

[4th March, 1948]

Whereas it is expedient to provide for regulating the employment of dock workers;

It is hereby enacted as follows:—

1. **Short title and extent.**—(1) This Act may be called the Dock Workers (Regulation of Employment) Act, 1948.

<sup>2</sup> Gazette of India, 1949, Vol. V, page 84.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, Part V, dated 22nd November, 1947 p. 432; see also p. 702 ante and for the Report of the Select Committee, see Gazette of India, 1948, Part V, page 3.



(2) It extends to the whole of India <sup>2</sup>[except the State of Jammu and Kashmir].

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "cargo" includes anything carried or to be carried in a ship or other vessel;
- (b) "dock worker" means a person employed or to be employed in, or in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes, or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving port;
- (c) "employer", in relation to a dock worker, means the person by whom he is employed or to be employed as aforesaid;
- (d) "Government" means, in relation to any major port, the Central Government and, in relation to any other port, the <sup>3</sup>[State] Government;
- (e) "scheme" means a scheme made under this Act.

3. **Scheme for ensuring regular employment of workers.**—(1) Provision may be made by a scheme for the registration of dock workers with a view to ensuring greater regularity of employment and for regulating the employment of dock workers, whether registered or not, in a port.

(2) In particular, a scheme may provide—

- (a) for the application of the scheme to such classes of dock workers and employers as may be specified therein;
- (b) for defining the obligations of dock workers and employers subject to the fulfilment of which the scheme may apply to them and the circumstances in which the scheme shall cease to apply to any dock workers or employers;
- (c) for regulating the recruitment and entry into the scheme of dock workers, and their registration, including the maintenance of registers, the removal, either temporarily or permanently, of names from the registers and the imposition of fees for registration;
- (d) for regulating the employment of dock workers, whether registered or not, and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays and pay in respect thereof;
- (e) for securing that, in respect of periods during which employment, or full employment, is not available for dock workers to whom the scheme applies and who are available for work, such workers will, subject to the conditions of the scheme, receive a minimum pay;
- (f) for prohibiting, restricting or otherwise controlling the employment of dock workers to whom the scheme does not apply and the employment of dock workers by employers to whom the scheme does not apply;
- (g) for the training and welfare of dock workers, in so far as satisfactory provision therefor does not exist apart from the scheme;
- (h) for health and safety measures in places where dock workers are employed, in so far as satisfactory provision therefor does not exist apart from the scheme;
- (i) for the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed;

<sup>2</sup> Substituted for the words "except Part B States" by the Part B States (Laws) Act, 1951 (III of 1951).

<sup>3</sup> Substituted by the Adaptation of Laws Order, 1950 for the word "Provincial".

<sup>4</sup>[(j) for constituting, whether as a body corporate or otherwise, the authority to be responsible for the administration of the scheme];

(k) for such incidental and supplementary matters as may be necessary or expedient for the purposes of the scheme.

(3) A scheme may further provide that a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

**4. Making, variation and revocation of schemes.**—(1) The Government may, by notification in the official Gazette and subject to the condition of previous publication, make one or more schemes for a port or group of ports, and may in the like manner and subject to the like condition add to, amend, vary or revoke any scheme made by it.

(2) The provisions of section 23 of the General Clauses Act, 1897 (X of 1897) shall apply to the exercise of a power given by sub-section (1) as they apply to the exercise of a power given by a Central Act to make rules subject to the condition of previous publication.

(3) The Government may direct the port authority of any port to prepare, in accordance with such instructions as may from time to time be given to it, one or more draft schemes for the port, and the port authority shall comply with such direction.

**5. Advisory Committees.**—(1) The Government may, or if it decides to make any scheme under section 4, shall, constitute an Advisory Committee, to advise upon such matters arising out of the administration of this Act or any scheme made thereunder as the Government may refer to it for advice.

(2) The members of the Advisory Committee shall be appointed by the Government, and shall be of such number (not exceeding fifteen) and chosen in such manner as may be prescribed by rules made under sub-section (5):

Provided that the Advisory Committee shall include an equal number of members representing—

- (i) the Government,
- (ii) the dock workers,
- (iii) the employers of dock workers.

(3) The Chairman of the Advisory Committee shall be one of the members appointed to represent the Government, nominated in this behalf by the Government.

(4) The Government shall publish in the official Gazette the names of all members of the Advisory Committee.

(5) The Government may, by notification in the official Gazette, make rules to provide for—

- (a) the composition of the Advisory Committee;
- (b) the manner in which its members shall be chosen;

<sup>4</sup> This sub-clause was substituted by Section 2 of the Dock Workers (Regulation of Employment) Amendment Act, 1949 (XXIX of 1949).

- (c) the term of office of its members;
- (d) the allowances, if any, payable to the members of the Committee;
- (e) the manner in which the Committee shall conduct its business, including the number of members to be present at a meeting thereof in order to constitute a quorum.

**6. Inspectors.**—(1) The Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act at such ports as may be specified in the notification.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860 (XLV of 1860).

(3) An Inspector may, at any port for which he is appointed,—

- (a) enter, with such assistance (if any) as he thinks fit, any premises or vessel where dock workers are employed;
- (b) require any authority or person to produce any register, muster-roll or other document relating to the employment of dock workers, and examine such document;
- (c) take on the spot or otherwise the evidence of any person for the purpose of ascertaining whether the provisions of any scheme made for the port are, or have been, complied with.

(4) The Government may, by notification in the official Gazette, prescribe the manner in which and the persons by whom complaints regarding contravention of any provision of a scheme may be made to an Inspector and the duties of the Inspector in relation to such complaints.

**7. Cognizance of offences.**—(1) No Court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a report in writing of the facts constituting such offence or abetment made by an Inspector or by a person specially authorised in this behalf by the Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence made punishable by a scheme or an abetment thereof shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

## **DOCK WORKERS (ADVISORY COMMITTEE) RULES, 1949**

### **Arrangement of Paragraphs**

1. Short title and extent.
2. Definitions.
3. Constitution of the Committee.
4. Functions.
5. Term of office of members.
6. Casual vacancy.
7. Resignation of members.
8. Headquarters.
9. Meetings.
10. Notice of meetings and list of business.
11. Minutes of meetings.
12. Power to invite experts to meetings.
13. Allowances of members.
14. Controlling Officer.

## DOCK WORKERS (ADVISORY COMMITTEE) RULES, 1949<sup>1</sup>

In exercise of the powers conferred by sub-section (5) of section 5 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government is pleased to make the following rules, namely:—

**1. Short title and extent.**—(1) These Rules may be called the Dock Workers (Advisory Committee) Rules, 1949.

(2) They extend to all the major ports in India.

**2. Definitions.**—In these rules, unless there is anything repugnant in the subject or context:—

(a) "Act" means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948).

(b) "Chairman" means the Chairman of the Dock Workers Advisory Committee.

(c) "Committee" means the Dock Workers Advisory Committee.

(d) "Member" means a member of the Dock Workers Advisory Committee.

### COMPOSITION, FUNCTIONS, ETC., OF THE COMMITTEE

**3. Constitution.**—The Committee shall consist of fifteen members to be appointed by the Central Government, namely:—

(1) five members representing the Central Government, three of whom shall be appointed on the recommendation, respectively, of the Provincial Governments of Bombay, Madras and West Bengal and two shall be appointed on the recommendation, respectively, of the Ministry of Labour and the Ministry of Transport of the Central Government;

<sup>2</sup>[(2) five members representing the employers of dock workers, three of whom shall be appointed on the recommendation, respectively, of the Bombay Port Trust, the Madras Port Trust and the Port Commissioners of Calcutta and the remaining two in consultation with such organisations of stevedores at Bombay and Calcutta as the Central Government may consider appropriate; and]

(3) five members representing the dock workers who shall be appointed in consultation with such unions of dock workers as the Central Government may consider appropriate.

**4. Functions.**—The Committee shall advise the Central Government upon such matters arising out of the administration of the Act or any scheme made thereunder as the Central Government may refer to it for advice.

**5. Term of office of members.**—A member shall, unless he resigns his office or dies at an earlier date, hold office for a period of three years from the date of the notification appointing him as a member and shall be eligible for reappointment:

Provided that an outgoing member shall continue in office until the appointment of his successor is notified in the official Gazette.

**6. Casual vacancy.**—A member appointed to fill a casual vacancy shall hold office for as long as the member whose place he fills would have been entitled to hold office if the vacancy had not occurred.

**7. Resignation of members.**—(1) A member, other than the Chairman may resign his office by a letter in writing addressed to the Chairman.

(2) The Chairman may resign his office by a letter addressed to the Central Government.

(3) If a member proposes to proceed out of India, he shall, before doing so, intimate to the Chairman, the anticipated date of his departure from and of his return to India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation.

(4) A member shall be deemed to have vacated his office:—

(a) if he proceeds out of India without complying with the provisions of sub-rule (3);

(b) if he becomes an insolvent;

(c) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(d) if he is absent from three consecutive meetings of the Committee without leave of absence from the Chairman;

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. LR. 21 (22), dated 1st June, 1949.

<sup>2</sup> Substituted by Notification No. Fac. 73(10) dated the 11th February, 1950.

(e) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or their employers ceases to be representative of dock workers or their employers, as the case may be; or

(f) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member.

**8. Headquarters.**—The headquarters of the Committee shall be at such place as may fixed by the Central Government.

#### CONDUCT OF BUSINESS OF THE COMMITTEE

**9. Meetings.**—(1) Every matter referred to the Committee for advice shall be considered either at a meeting of the Committee, or, if the Chairman so directs, by circulation of the necessary papers for opinion to every member who is present in India at the time:

Provided that any member may request that the matter be considered at a meeting of the Committee and thereupon the Chairman may, and if the request is made by three or more members shall, direct that it be so considered.

(2) The Committee shall meet at such places and times as may be appointed by the Chairman.

(3) The Chairman shall preside over every meeting of the Committee at which he is present and in his absence the members present shall elect one of their number to preside over the meeting and the member so elected shall at that meeting exercise all the powers of the Chairman.

(4) No business shall be transacted at a meeting of the Committee unless at least three members are present:

Provided that if at any meeting less than three members are present, the Chairman may adjourn the meeting to a date not less than seven days later, informing the members present and notifying other members that he proposes to dispose of the business at the adjourned meeting whether there is the prescribed quorum or not and it shall thereupon be lawful for him to dispose of the business at the adjourned meeting irrespective of the number of members attending.

(5) Every question at a meeting of the Committee shall be decided by a majority of votes of the members present and voting, provided that a member shall in all cases have the right to have his note of dissent recorded.

(6) Every question referred to the members for opinion under sub-rule (1) shall, unless the Chairman in pursuance of the proviso to that sub-rule reserves it for consideration at a meeting, be decided in accordance with the opinion of the majority of the members recording opinion within the time allowed for it.

(7) In the case of an equal division of votes or opinions, as the case may be, the Chairman shall have a second or casting vote or opinion.

**10. Notice of meetings and list of business.**—(1) Notice shall be given to every member present in India of the time and place fixed for each meeting at least fifteen days before the date of such meeting and each member shall be furnished with a list of business to be disposed of at the meeting:

Provided that when an emergent meeting is called by the Chairman, it shall not be necessary to give more than five days' notice.

(2) No business which is not on the list of business shall be considered at a meeting without the permission of the Chairman.

**11. Minutes of meetings.**—The minutes of each meeting of the Committee shall be circulated to all members present in India as soon as possible after the meeting, shall be read out and confirmed at the next meeting of the Committee, shall be signed by the Chairman or the member presiding, as the case may be, and shall thereafter be recorded in a minute book.

**12. Power to invite experts to meetings.**—The Chairman may invite one or more experts to be present at any meeting and to participate in the discussion of any technical matter, but such experts shall not be entitled to vote.

#### ALLOWANCES OF MEMBERS

**13.** Every non-official member and any expert invited to attend a meeting of the Committee under Rule 12, shall be entitled to the following allowances:—

(1) if he is usually resident at the place of meeting, the actual cost of conveyance hire, subject to maximum of Rs. 10 per day; or

- (2) if he is not usually resident at the place of meeting and he certifies in writing that he has not drawn any travelling or daily allowance in respect of the journey and the halts from any other source:—

(i) *Travelling Allowance*—

- <sup>3</sup>[(a) in respect of journeys by air—one and one-fourth of the standard fares each way, if a journey by air is permitted by the Central Government in the public interest;
- (b) in respect of journeys by train—one single fare of the accommodation in the highest class, other than the air conditioned accommodation, provided on the railway by which a member travels *plus* 12 pies per mile.]
- (c) in respect of journeys by road, etc.—the rates of mileage allowance admissible to Central Government Officers of the First Grade.

(ii) *Daily Allowance*—

- (a) At the rates admissible to Central Government Officers of the First Grade:
- (b) Daily allowance will also be admissible in respect of one day previous to the commencement of the meeting if the member arrives at the place of the meeting in the forenoon of that day and one day after its termination if he leaves the place of meeting in the afternoon of that day.

14. The Chairman shall be the Controlling Officer in respect of the bills for the allowances admissible under Rule 13.

## BOMBAY DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1951

### Arrangement of Paragraphs

1. Name of the Scheme.
2. Objects and Application.
3. Interpretations.
4. Bombay Dock Labour Board—Establishment of.
5. Administrative Body.
6. Special Officer and other servants of the Board.
7. Functions of the Board.
8. Functions of the Administrative Body.
9. Functions of the Special Officer.
10. Maintenance of Registers, etc.—(1) Employers' Register, (2) Workers' Register.
11. Classification of workers in Registers.
12. Fixation of number of workers on the Register.
13. Registration of existing and new workers.
14. Transfer of workers.
15. Medical Examination.
16. Facilities for Training.
17. Registration Fee.
18. Supply of Cards.
19. Surrender of Cards.
20. Employment of workers.
21. Employment in Shifts.
22. Filling up of casual vacancies.
23. Guaranteed Minimum Wages.
24. Attendance Wages.
25. Employment for a Shift.
26. Disappointment Money.
27. Appeal Tribunal.
28. Registration Committee.
29. Obligations of registered dock workers.
30. Obligations of registered employers.
31. Restriction on Employment.
32. Circumstances in which the Scheme ceases to apply.
33. Wages, allowances and other conditions of service.
34. Pay in respect of unemployment or underemployment.

<sup>3</sup> Substituted by Notification No. S.R.O. 44 dated the 23th December, 1954.

- 35. Disentitlement to payment.
  - 36. Disciplinary procedure.
  - 37. Termination of employment.
  - 38. Appeals to Appeal Tribunal.
  - 39. Appeal to Board.
  - 40. Suspension of notice in case of certain appeals.
  - 40A. Special Provisions for action in an emergency.
  - 41. Cost of operating the Scheme.
  - 42. Penalties.
- SCHEDULE.

## BOMBAY DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1951<sup>1</sup>

In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government hereby makes the following Scheme for the Port of Bombay, the same having been previously published as required by the said sub-section, namely:—

### The Scheme

## THE BOMBAY DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1951

1. **Name of the Scheme.**—This Scheme may be called the Bombay Dock Workers (Regulation of Employment) Scheme, 1951, and is hereinafter referred to as "the Scheme."

2. **Objects and Application.**—(1) The Objects of the Scheme are to ensure greater regularity of employment for dock workers and to secure that an adequate number of dock workers is available for the efficient performance of dock work.

(2) The Scheme relates to the Port of Bombay and shall apply to the classes or descriptions of dock work and dock workers set out in the Schedule annexed to the Scheme:

Provided always that the Scheme shall not apply to any dock worker unless he is employed or registered for employment in connection with the loading, unloading, movement or storage of cargoes or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or for leaving port.

(3) The Scheme shall apply to registered dock workers and registered employers.

(4) Nothing in this Scheme shall apply to any class or description of dock work and dock workers in the Indian Naval Dockyard, Bombay.

3. **Interpretations.**—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948);
- (b) "Administrative Body" means the Authority appointed under clause 5;
- (c) "Board" means the Board constituted under clause 4;
- (d) "cargo" and "dock worker" have the meanings respectively assigned to them in the Act;
- (e) "daily worker" means a registered dock worker who is not a monthly worker;
- (f) "dock employer" means the person by whom a dock worker is employed or is to be employed;
- (g) "dock work" means operations at places or premises to which the Scheme relates, ordinarily performed by dock workers of the classes or descriptions to which the Scheme applies;

<sup>1</sup> The Scheme was published under the Ministry of Labour Notification No. S.R.O. 129 dated the 27th January, 1951 in the Gazette of India, 1951, Part II—Section 3, p. 118—128.

On the basis of the findings and recommendations of the Dock Workers (Regulation of Employment) Enquiry Committee submitted on the 7th September, 1955, the Central Government has formulated drafts of Revised Scheme for Bombay repealing 1951 Scheme and has published the same in the Gazette of India Extraordinary, dated the 28th March, 1956, Part II—Section 3, pages 583—604 for eliciting public opinion. The Draft of the Revised Scheme contains 55 clauses as compared to 42 clauses of 1951 Scheme.

- (h) "employer's register" means the register of dock employers maintained under the Scheme;
- (i) "monthly worker" means a registered dock worker who is engaged by a registered employer under a contract which requires at least one month's notice for its termination;
- (j) "register or record" means the register or record of dock workers maintained under the Scheme;
- (k) "registered dock worker" means a dock worker whose name is for the time being entered in the register or record;
- (l) "registered employer" means a dock employer whose name is for the time being entered in the employer's register;
- (m) "reserve pool" means registered dock workers who are available for work, and who are not at any time in the employment of a registered employer;
- (n) "week" means the period commencing from mid-night of Saturday and ending on the mid-night of the next succeeding Saturday;
- (o) "Special Officer" means the special officer appointed under clause 6.

4. **Bombay Dock Labour Board.—Establishment of.**—(1) The Central Government shall, by notification in the official Gazette, constitute a Board to be called the "Bombay Dock Labour Board" which shall, subject to the provisions hereinafter contained, be responsible for the administration of the Scheme.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of <sup>2</sup>[fifteen] members to be appointed by the Central Government and shall include an equal number of members representing—

- (i) the Central Government,
- (ii) the dock workers, and
- (iii) the employers of dock workers and shipping companies.

(4) The Chairman of the Board shall be nominated by the Central Government from among the members representing the Government and the Vice-Chairman of the Board shall be elected by the members of the Board from among themselves.

(5) The persons representing respectively the dock workers and the employers shall be appointed after consulting such Associations of persons as appear to the Central Government to be representative of such workers and such employers.

(6) There shall be paid to the non-official members of the Board such salaries, fees and allowances as may subject to the approval of the Central Government, be determined by the Board, from time to time.

<sup>3</sup>[(7) (a) A member of the Board shall hold office for a period of three years from the date of the notification appointing him as a member and shall be eligible for re-appointment:

Provided that an outgoing member shall continue in office until the appointment of his successor is notified in the Official Gazette.

(b) A member appointed to fill a casual vacancy shall hold office for the un-expired portion of the term of the person in whose place he is appointed.

(c) A member, other than the Chairman, may resign his office by letter under his hand addressed to the Chairman.

(d) The Chairman may resign his office by letter under his hand addressed to the Central Government.

(e) If a member proposes to proceed out of India, he shall, before doing so intimate to the Chairman, the proposed date of his departure from, and of his return to, India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation.

(f) A member shall be deemed to have vacated his office:—

- (i) if he proceeds out of India without complying with the provisions of sub-clause (e);
- (ii) if he becomes an insolvent;

<sup>2</sup> Substituted for the words "twelve" by Ministry of Labour Notification No. S.R.O. 467 dated the 18th February, 1955.

<sup>3</sup> Substituted by Notification No. S.R.O. 1267 dated the 14th July, 1952.



- (iii) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;
- (iv) if he is absent from three consecutive ordinary meetings of the Board without leave of absence from the Chairman;
- (v) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or employers of dock workers and shipping companies ceases to be representative of dock workers or their employers or the shipping companies, as the case may be; or
- (vi) if, in the opinion of the Central Government it is for any other reason not desirable that he should continue to be a member.]

(8) No act done by the Board shall be questioned merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Board.

(9) The quorum and procedure of the Board shall be such as the Board may from time to time determine.

(10) If any question arises for the decision of the Board, it shall be decided by a resolution of the majority of the members of the Board present and voting <sup>4</sup>[and in case of equality of votes the Chairman shall have a second or a casting vote]

**5. Administrative Body.**—(1) The Central Government may, by notification in the Official Gazette, appoint the Bombay Stevedores' Association or any other authority for the purpose of carrying on the day-to-day administration of the Scheme.

(2) The Administrative Body shall subject to the supervision and control of the Board and subject to the provisions of clause 9 carry on the day-to-day administration of the Scheme.

(3) The Central Government may for sufficient cause remove any authority appointed under sub-clause (1):

Provided that no such authority shall be removed unless it has been given a reasonable opportunity of being heard.

**6. Special Officer and other servants of the Board.**—The Board may appoint a Special Officer and such other officers and servants and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit:

Provided that no post carrying a salary of rupees five hundred per mensem or more, shall be created and no appointment to such post shall be made by the Board except with the previous approval of the Central Government.

**7. Functions of the Board.**—(1) The Board may take such measures as it may consider desirable for furthering the objectives of the Scheme set out in clause 2, including measures for:

- (a) ensuring the full and proper utilisation of dock labour for the purpose of facilitating the rapid and economic turnround of vessels and the speedy transit of goods through the port;
- (b) regulating the recruitment and entry into and the discharge from the Scheme of dock workers and the allocation of registered dock workers to registered employers;
- (c) determining and keeping under review in consultation with the Administrative Body the number of registered employers and registered dock workers from time to time on the registers or records and the increases or reductions to be made in the numbers in any such registers or records;
- (d) keeping, adjusting and maintaining the employers' registers entering or re-entering therein the name of any dock employer and where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (e) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary, of dock workers including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;

<sup>4</sup> Inserted by Notification No. S.R.O. 1267 dated the 14th July, 1952.

- (f) the grouping or regrouping of all registered dock workers into such groups as may be determined by the Board after consultation with the Administrative Body and thereafter reviewing the grouping of any registered dock worker on the application of the Administrative Body or of the registered dock worker;
- (g) making satisfactory provision for the training and welfare of registered dock workers including medical services, in so far as such provision does not exist apart from the Scheme;
- (h) levying and recovering from registered employers contributions in respect of the expenses of the Scheme;
- (i) making satisfactory provision for health and safety measures in places where dock workers are employed in so far as such provision does not exist apart from the Scheme;
- (j) borrowing or raising money and issuing debentures or other securities and, for the purpose of securing any debt or obligation, mortgaging or charging all or any part of the property of the Board.

(2) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Scheme and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever by way of benefit to the members of the Board; provided that nothing herein shall prevent the payment of reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return for any services actually rendered to the Board, nor prevent the payment of interest at a reasonable rate on money lent or reasonable and proper rent for premises demised or let by any member to the Board.

(3) The Board shall cause proper accounts to be kept of the costs of operating the Scheme and of all receipts and expenses under the Scheme.

<sup>5</sup>[(4) The Board shall submit to the Central Government an annual report on the working of the Scheme, an audited balance sheet and copies of proceedings of the meetings of the Board.]

**8. Functions of the Administrative Body.**—Without prejudice to the powers and functions of the Board, the Administrative Body shall be responsible for the administration of the Scheme and shall in particular be responsible for—

- (a) the keeping, adjusting and maintaining the employers' register, entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (b) the keeping, adjusting and maintaining from time to time such registers or records as may be necessary, of dock workers, including any register or record of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from the register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;
- (c) the employment and control of registered dock workers available for work when they are not otherwise employed in accordance with the Scheme;
- (d) the grouping or re-grouping of registered dock workers in accordance with instructions received from the Board in such groups as may be determined by the Board;
- (e) the allocation of registered dock workers who are available for work to registered employers and for this purpose the Administrative Body shall—
  - (i) be deemed to act as an agent for the employer,
  - (ii) make the fullest possible use of registered dock workers in the Reserve Pool,
  - (iii) keep the record of attendance, at call stands or control points, of registered dock workers,
  - (iv) provide for the maintenance of the records of employment and earnings,
  - (v) subject to the allotment of work by rotation under clause 21(3), follow the principle of seniority, i.e., a worker shall not be allocated unless all registered workers of the same category above him in the register have been allocated;

<sup>5</sup> Substituted by Notification No. S.R.O. 1267 dated the 14th July, 1952.

- (f) (i) the payment as agent of the registered employer to each daily worker of all earnings properly due to the worker from the employer, and the payment to such workers of all monies payable by the Board to those workers in accordance with the provisions of the Scheme;
- (ii) the payment of the employer's contribution to any scheme of insurance constituted under any Act in respect of daily workers and the custody and stamping of their insurance books or cards;
- (iii) the payment of the employer's contribution to any scheme of Provident Fund established for daily workers;
- (g) appointing, subject to budget provision, such officers and servants from time to time as may be necessary;

Provided that the creation of posts carrying a pay of Rs. 250 or over per month and appointment of persons to such posts shall be subject to the prior approval of the Board;

- (h) the keeping of proper accounts of the cost of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet;
- (i) the framing of budget annually and for getting it approved by the Board; and
- (j) such other functions as may from time to time be delegated to it by the Board.

**9. Functions of the Special Officer.**—(1) The Special Officer shall discharge all functions relating to disciplinary action against registered employers and daily workers and shall in particular be responsible for taking action under clauses 35, 36 and 37.

(2) The Board may entrust the Special Officer either of its own motion or at the instance of the Administrative Body such other functions as the Board may deem fit.

**10. Maintenance of Registers, etc.**—(1) **Employers' Register.**—(a) There shall be a register of employers.

(b) In so far as the application of the Scheme to stevedore labour is concerned, every stevedore, who is licensed by the Bombay Port Trust at the time when the Scheme is put into operation and who has worked as a stevedore in the port of Bombay at any time during the preceding two years shall be entitled to be registered under the Scheme; but no such person shall be so entitled unless he applies for registration on or before the date fixed by the Board for this purpose.

(c) Persons other than those registered under sub-clause (b) shall not be registered as stevedores unless the Board considers it expedient and necessary to do so and in no case shall a person be registered until he has been licensed in that behalf by the Port Authority.

(d) A registration fee of Rs. 500 shall be payable to the Board by every stevedore.

(2) **Workers' Registers.**—(1) The registers shall be maintained in the forms devised by the Registration Committee and approved by the Board for the purpose.

(2) The registers of stevedore workers shall be as under, namely:—

(i) **Monthly Register.**—Register of workers who are engaged by each stevedore on contract on monthly basis and who are known as monthly workers.

(ii) **Reserve Pool Register.**—Register of workers other than those on the monthly register. This register shall include a pool of junior stevedore workers to fill casual vacancy in gangs. No vacancy occurring in the Reserve Pool Register shall be filled by the Administrative Body until the appropriate Employment Exchange has indicated its inability to supply suitable applicants.

**11. Classification of workers in Registers.**—(i) The Registration Committee shall arrange for the classification of workers by categories in the registers.

(ii) Stevedore labour shall be classified in the following categories:—

- (a) Foremen—Grade I.
- (b) Foremen—Grade II.
- (c) Foremen—Grade III.
- (d) Chargemen.
- (e) Stevedore Tindal.
- (f) Winchmen.
- (g) Hatch-Foremen.
- (h) Khalasi.
- (i) Stevedore worker—senior.
- (j) Stevedore worker—junior.

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\* Items "(h) Cleaning Tindal and (l) Cleaning worker" omitted by Notification No. S.R.O. 1267 dated the 14th July, 1952.

**12. Fixation of number of workers on the register.**—The total number of workers in each category shall be determined by the Board in consultation with the Port Authority.

**13. Registration of existing and new workers.**—(1) Any dock worker who, immediately before the coming into force of the Scheme, is in the employment of any employer to whom the Scheme applies, shall be eligible for registration.

(2) New workers will be selected for registration by the Registration Committee out of the list submitted by the Employment Exchange. The qualifications for such selection shall be age not exceeding forty years, physical fitness, capacity and/or experience. Preference will be given to Indian citizens.

(3) New workers to be selected for registration will be on probation for a period of three months before being placed on a permanent basis in the registers.

**14. Transfer of Workers.**—(1) A vacancy in any category of workers in a register shall ordinarily be filled by promotion of a worker from the next lower category.

(2) A vacancy in any category of monthly workers may be filled by transfer of a senior worker in the same or a superior category of the Reserve Pool workers only if no person is suitable for promotion from lower categories of monthly workers.

*Explanation.*—The criteria for promotion or transfer shall ordinarily be the following, viz:—

- (a) seniority,
- (b) merit and fitness for work in the category to which promotion is to be made,
- (c) record of past service.

(3) If the services of a monthly worker are terminated by the employer he shall be entitled to registration in the Reserve Pool in a similar category and his previous service shall be reckoned for all benefits in the Reserve Pool and the employer shall transfer to the Board all benefits that have accrued to the worker in respect of previous service as if such service had not been terminated unless the Board decides that for some special reason the worker is unfit to be re-employed as a dock worker. The employer shall in particular contribute to the Board such amount as may be appropriate towards the worker's leave that may be due to him on the date of such transfer.

**15. Medical Examination.**—If the Administrative Body deems it necessary, a worker shall undergo free of charge medical examination by a Medical Board to be constituted by the Board.

**16. Facilities for Training.**—Adequate facilities for training shall be provided for workers by the Board.

**17. Registration Fee.**—A registration fee of rupees two shall be payable to the Board by each worker:

Provided however that the fee for workers registered at the commencement of the Scheme shall be rupee one.

**18. Supply of Cards.**—(1) Every registered worker shall be supplied, free of cost, with the following cards in the forms prescribed by the Board, namely:—

- (i) Identity Card.
- (ii) Attendance and Wage Card.

(2) In case of loss of a card, a fresh card will be issued but the cost thereof, which will be fixed by the Board, shall be payable, by the worker concerned.

**19. Surrender of Cards.**—A worker's card shall be surrendered to the Administrative Body in the following cases and circumstances, namely:—

- (a) when proceeding on leave,
- (b) when retiring from service,
- (c) when dismissed or discharged from service,
- (d) when temporarily suspended,
- (e) on death.

**20. Employment of Workers.**—(1) Workers on the Monthly Register attached to a registered employer shall be entitled to be employed by that employer in preference to any worker in the Reserve Pool Register.

(2) For work which cannot be done by those on the Monthly Register, workers on the Reserve Pool Register shall be employed.

**21. Employment in Shifts.**—(1) Workers will be employed in shifts.

(2) Workers will not ordinarily be employed in two consecutive shifts in a day and in no case will workers on the Monthly Register be employed on a second shift so long as

workers in a similar category are available on the Reserve Pool Register for work in that shift.

(3) Workers of each category on the Reserve Pool Register shall be allotted work by rotation.

(4) Where work is carried on by a gang, the allotment of workers by rotation shall be by gangs.

<sup>1</sup>[22. **Filling up of casual vacancies.**—Casual vacancies in the Monthly and Reserve Pool Gangs will be filled up in the following manner:—

(a) When a tindal is absent, the vacancy will be filled by a tindal on attendance allowance. If no tindal is on attendance allowance, the seniormost senior worker in the same gang available for work will work as a tindal.

(b) Vacancies of senior and junior stevedore workers will be filled by registered senior and junior workers respectively on attendance allowance. If no senior worker is on attendance allowance, the seniormost junior worker of the same gang available for work will work as a senior worker. When all the senior and junior workers on the reserve pool register on attendance allowance have been employed, junior workers registered for filling up casual vacancies will be employed.

(c) In filling up vacancies otherwise than by promotion in the same gang, the principle of rotation will be followed:

Provided that where work is carried on by a gang, the allotment of workers by rotation shall be by gangs.]

**23. Guaranteed Minimum Wages.**—A worker on the Reserve Pool Register shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs, even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above.

**24. Attendance Wages.**—Subject to the provisions of the Scheme, a worker on the Reserve Pool Register who is available for work but for whom no work is found shall be paid attendance wages at the rate of rupee one per day for the days on which no work was found for him during a calendar month. Provided that no attendance wages will be payable for any day for which full wages, inclusive of dearness allowance, have been paid under clause 23 or otherwise or for which disappointment money is paid under clause 26.

**25. Employment for a Shift.**—No worker in the Reserve Pool Register shall be employed for a period of less than a shift and where the work for which a worker has been engaged is completed during the working period of the shift he shall undertake such other work in or at the same or another vessel or berth as may be required by the same employer for the remainder of the period and if no such other work is made available to him, he shall be paid for the entire shift.

**26. Disappointment Money.**—When a worker in the Reserve Pool presents himself for work and for any reason beyond the control of the employer, the work for which he has attended cannot proceed and no alternative work can be found for him and he is relieved within 2 hours of his attending for work, he will be entitled to disappointment money equal to half the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs. A worker detained for more than 2 hours shall be paid full wages inclusive of dearness allowance.

**27. Appeal Tribunal.**—(1) The Central Government shall appoint one or more Appeal Tribunals for the purposes of hearing appeals under the Scheme.

(2) The Appeal Tribunal shall consist of not more than three persons, who shall not be members of the Board.

**28. Registration Committee.**—The Board may appoint one or more Registration Committees, to whom it may delegate such duties as it may think fit in relation to the registration both of dock workers and of employers of dock workers.

**29. Obligations of registered dock workers.**—(1) Every registered dock worker shall be deemed to have accepted the obligations of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall be deemed to be in the employment of the Board.

(3) A registered dock worker who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the Administrative Body.

<sup>1</sup> Substituted by Notification No. S.R.O 457 dated the 27th January, 1954.

(4) A registered dock worker available for work in the employment of the Board shall carry out the directions of the Administrative Body and shall—

(a) report at such call stands or control points and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points for such period, not exceeding one hour from the commencement of the shift, as may be so specified;

(b) accept any employment in connection with dock work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

(5) A registered dock worker who is available for work when allocated by the Administrative Body for employment under a registered employer shall carry out his duties in accordance with the directions of such registered employer and the rules of the port or place where he is working.

**30. Obligations of registered employers.**—(1) Every registered employer shall accept the obligations of the Scheme.

(2) A registered employer shall not employ a worker other than a worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 8(e).

(3) Unless otherwise directed by the Administrative Body a registered employer shall, on the engagement of a registered dock worker who is available for work, obtain his record book or wage card and stamp it in respect of each period of work and return it to him at the conclusion of his engagement.

(4) A registered employer shall in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.

(5) A registered employer shall, in accordance with directions given by the Administrative Body, lodge with the latter a return of the gross wages (including overtime and allowances and without deductions of any kind) due from him to each registered dock worker engaged by him in respect of the period covered by the return.

(6) A registered employer shall pay to the Administrative Body in such manner and at such times as the Board may direct the total amount of the gross wages due to daily workers specified in the return made under the preceding paragraph.

(7) A registered employer shall keep such records as the Board may require, and shall produce to such persons as may be designated by the Board upon reasonable notice all such records and any other documents of any kind relating to registered dock workers and to the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice or direction issued by or on behalf of the Board.

**31. Restriction on employment.**—(1) No person other than a registered employer shall engage for employment or employ any worker on dock work nor shall a registered employer engage for employment or employ a worker on dock work unless that worker is a registered dock worker.

(2) Notwithstanding the foregoing provisions of this clause—

(a) where the Administrative Body is satisfied that—

(i) dock work is urgently required to be done; and

(ii) it is not reasonably practicable to obtain a registered dock worker for that work,

the Administrative Body may, subject to any limitations imposed by the Board, allocate to a registered employer a person who is not a registered dock worker. In selecting such workers the local Employment Exchange organisation shall, as far as possible, be consulted.

(b) in the case referred to in sub-paragraph (a) the person so employed as aforesaid by a registered employer shall, for the purposes of clause 30(5), (6) and (7) and clause 33, be treated in respect of that dock work as if he were a daily worker.

**32. Circumstances in which the Scheme ceases to apply.**—(1) The Scheme shall cease to apply to a registered dock worker when his name has been removed from the register or record in accordance with the provisions of the Scheme.

(2) The Scheme shall cease to apply to a registered employer when his name has been removed from the employers' register in accordance with the provisions of the Scheme.

(3) Nothing in this clause shall affect any obligation incurred or right accrued during any time when the person was a registered dock worker or a registered employer.

**33. Wages, allowances and other conditions of service.**—It shall be an implied condition of the contract between a registered dock worker (whether monthly or daily), and a registered employer that—

(a) the rates of wages, allowances, and overtime, hours of work, rest intervals, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers.

(b) the fixation of wage-periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

**34. Pay in respect of unemployment or underemployment.**—(1) Subject to the conditions set out in this and the next following clause, when, in any wage period, a registered dock worker in the Reserve Pool is available for work but is not given employment or full employment, he shall be entitled to receive from the Board such amounts as may be admissible to him under clauses 23, 24 and 26.

(2) The conditions subject to which a registered dock worker is entitled to the said payment (if any) from the Board are that—

(a) he attended as directed at the call stands or control points or was excused from attendance; and

(b) his attendance or his excused attendance was recorded.

**35. Disentitlement to payment.**—(1) A registered dock worker available for work who while in the Reserve Pool fails without adequate cause to comply with the provisions of clause 29(4)(a) or (b), or fails to comply with any lawful order given to him by or on behalf of the Board, may be reported in writing to the Special Officer.

(2) A registered dock worker in the Reserve Pool available for work who, while in employment to which he has been allocated by the Administrative Body, fails without any adequate cause to comply with the provisions of clause 29(5) or fails to comply with any lawful orders given to him by his employer, may have his engagement terminated and may be returned to the Reserve Pool, and, whether or not he is so returned may be reported in writing to the Special Officer. When a registered dock worker is so returned to the Reserve Pool, his record book or wage card shall be returned to the Administrative Body.

(3) The Special Officer shall consider any written report received under paragraph (1) or (2) and if, after investigating the matter, he notifies the registered dock worker and the Administrative Body that he is satisfied that the registered dock worker has failed to comply with a lawful order as aforesaid, the registered dock worker shall not be entitled to any payment, or to such part of any payment under clause 34 as the Special Officer thinks fit in respect of the wage period in which such failure occurred or continues.

**36. Disciplinary procedure.**—(1) The Special Officer, on receipt of information, whether on a complaint or otherwise, that a registered employer has failed to carry out the provisions of the Scheme, and after investigating the matter, may take any of the following steps as regards that employer, that is to say, he may—

(a) give the registered employer a warning in writing;

(b) subject to the approval of the Board and after one month's notice in writing given to the registered employer by the Special Officer inform the Administrative Body that the name of the registered employer shall be removed from the employers' register for such period as determined by the Board.

(2) A registered dock worker in the Reserve Pool who is available for work and fails to comply with any of the provisions of the Scheme, may be reported in writing to the Special Officer, who may, after investigating the matter and without prejudice to and in addition to the powers conferred by clause 35, take any of the following steps as regards that worker, that is to say, he may—

(a) determine that, for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34;

(b) give him a warning in writing;

(c) suspend him without pay for a period not exceeding three days;

(d) give him fourteen days' notice of termination;

(e) dismiss him.

<sup>8</sup>[(2A) Where in a case reported to the Special Officer under sub-clause (2), he is of opinion that the act of indiscipline or misconduct is so serious that the worker should not

<sup>8</sup> Clauses (2A) and (2B) inserted by the Ministry of Labour Notification No. S.R.O. 710 dated the 23rd March, 1955.

be allowed to work any longer, the Special Officer may, pending investigation of the matter and the passing of orders thereon under sub-clause (2), by order in writing delivered to the worker, suspend him.

(2B) Where a worker has been suspended by an order under sub-clause (2A), he shall for the period of suspension be paid a subsistence allowance equivalent to the attendance wages provided in clause 24, and such allowance shall not be recoverable or liable to forfeiture in any case whatsoever:

Provided that where a worker is found not guilty, he shall be entitled to such payments as he would have received under clause 34, the period of suspension being treated as excused attendance for the purpose of that clause:

Provided further that where subsistence allowance has been paid during a particular period, attendance wages under clause 24 shall not be payable in respect of that period.]

(3) Before any action is taken under sub-clause (1) or (2), the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him.

(4) The Administrative Body shall be informed simultaneously about the action taken under [sub-clauses (1), (2) and (2A)].

**37. Termination of employment.**—(1) The employment of a registered dock worker in the Reserve Pool who is available for work shall not be terminated by the Special Officer except—

- (a) by dismissal in the case of misconduct; or
- (b) by giving him fourteen days' notice in writing for any other justifiable cause; or
- (c) so as to enable the worker to be employed in accordance with the provisions of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall not leave his employment with the Board except by giving fourteen days' notice in writing to the Board or except where he is to be employed in accordance with the provisions of the Scheme.

(3) Where the employment of a registered dock worker by the Board has been terminated under paragraph (1)(a) or (b), or under paragraph (2) by a notice given by him, his name shall forthwith be removed from the register or record by the Administrative Body.

**38. Appeals to Appeal Tribunal.**—(1) If a registered dock worker who is available for work is aggrieved by any order under which he—

- (a) is not entitled to any payment under clause 34 by reason of any of the grounds specified in clause 35 or 36; or
- (b) is suspended from the Scheme; or
- (c) is not properly grouped or regrouped in the register or record; or
- (d) is to be removed from the register or record under paragraphs (1) (a) and (3) of clause 37; or
- (e) is to be given a notice of termination of his employment in accordance with paragraph (1) (b) of clause 37;

he may, within seven clear days of the date of the order or, as the case may be, of the date of the receipt of the notice terminating his employment, prefer an appeal in writing to the Appeal Tribunal:

Provided that the Appeal Tribunal may, for reasons to be recorded, admit an appeal preferred after the expiry of seven days:

Provided further that no such appeal shall lie where due notice has been given of the removal of the name of the registered dock worker from the register or record in accordance with the instructions of the Board, if the ground of removal is that the registered dock worker falls within a class or description of dock workers whose names are to be removed from the register or record in order to reduce the size thereof:

Provided further, that an appeal shall lie where the registered dock worker alleges that he does not belong to the class or description of dock workers referred to in the preceding proviso.

(2) The Appeal Tribunal shall, as soon as practicable, hear and decide the appeal, and if the appeal is allowed, it shall have power to order that the appellant shall be entitled to receive any payment or any part thereof which may be held to be due to him under clause 34 or that he shall be grouped in accordance with the decision of the Tribunal from such date as it may fix or that his name shall be restored in the register or record

\* Substituted by Notification No. S.R.O. 710 dated the 23rd March, 1955.



as from such date as it may fix. The Appeal Tribunal shall also have the power to vary, modify or alter the penalty imposed but it shall not have power to increase any penalty imposed or to impose a more severe penalty.

(3) An appellant shall not be entitled to be represented by a legal practitioner before the Appeal Tribunal, but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a registered dock worker.

(4) The decision of a majority of an Appeal Tribunal shall be the decision of the Tribunal and shall be final and conclusive. Such decision shall be forthwith given effect to by the Board and the Administrative Body.

**39. Appeal to Board.**—(1) A registered employer who is aggrieved by an order,

(a) giving him a warning in writing under clause 36(1) (a).

(b) directing a notice to be given to him under clause 36(1) (b) that his name will be removed from the employers' register,

may within seven clear days of the date of the order or as the case may be, the date of the receipt of the notice of removal from the employers' register, prefer an appeal to the Board, who shall forthwith refer the matter to the Central Government. The Central Government shall make such order on the appeal as it thinks fit.

(2) A stevedore or a worker who has been refused registration under clause 10(1) (b), clause 10(1) (c) or clause 13 as the case may be, shall have a right of appeal to the Board within seven clear days of the date of such refusal and if the original refusal is by the Board the appeal shall lie to the Appeal Tribunal.

(3) A registered dock worker in the Reserve Pool who is aggrieved by an order of the Administrative Body, made under clause 29(4) (b), requiring him to undertake any work, which is not of the same category to which he belongs, may prefer an appeal to the Board within seven clear days of the date of such order.

**40. Suspension of notice in case of certain appeals.**—Where an appeal is lodged in accordance with the provisions of clause 38, the Appeal Tribunal may suspend the operation of the order appealed from (except where the order is of dismissal or of disentitlement under clause 35) pending the hearing and disposal of the appeal.

<sup>10</sup>[**40-A. Special provisions for action in an emergency.**—(1) If at any time the Chairman of the Board is satisfied that an emergency has arisen which will seriously affect the working of the port, he may, by order in writing and for such period as he may from time to time specify therein, make a declaration to that effect:

Provided that no such declaration shall be made except with the previous approval of the Central Government.

(2) So long as an order under sub-clause (1) is in force, the following provisions shall apply, namely:—

(i) If any allegation is made that a registered employer has failed to carry out the provisions of the Scheme, the Chairman may, after holding a summary inquiry into the allegation, take any of the following steps as regards that employer, that is to say, he may—

(a) give the registered employer a warning in writing, or

(b) direct that the name of the registered employer shall be removed forthwith from the employers' register either permanently or for such period as he may determine.

(ii) If any allegation of indiscipline, "go-slow" or mis-conduct is made against a registered dock worker, the Chairman may suspend him forthwith pending inquiry, hold a summary inquiry into the allegation and take any one or more of the following steps against that worker, that is to say, he may—

(a) determine that for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34,

(b) give him a warning in writing,

(c) suspend him without pay for a period not exceeding three months,

(d) give him fourteen days' notice of termination, or

(e) dismiss him.

(3) The provisions of the Scheme relating to disciplinary action against registered employers and registered dock workers shall not apply to any order passed by the Chairman under paragraph (i) or paragraph (ii) of sub-clause (2).

<sup>10</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 308/BDWS/Am(5)/56 dated the 4th February, 1956.

(4) No appeal shall lie from any order passed by the Chairman under paragraph (i) or paragraph (ii) of sub-clause (2).

(5) Notwithstanding anything contained in the Scheme, so long as an order under sub-clause (1) is in force, the Chairman may authorise the employment of unregistered workers directly by registered employers and payment to such unregistered workers directly.]

**41. Cost of operating the Scheme.**—(1) The cost of operating the Scheme shall be defrayed by payments made by registered employers to the Board in the manner following:—

Every registered employer shall pay to the Board—

(a) such amount, whether by way of percentage on the gross wages payable by him under clause 30 (6) or as otherwise agreed, together with and at the same time as the payment of those wages; and

(b) at the same time as the payment under sub-paragraph (a), such amount whether by way of percentage on the gross wages shown as due to monthly workers in the return made under clause 30 (5) or as otherwise agreed;

as the Board may in either case from time to time notify by public notice.

(2) In determining what payments are to be made by registered employers under paragraph (1) of this clause, the Board may fix different percentages for different categories of work or workers, provided that the percentages shall be so fixed that the like percentages will apply to all dock employers who are in like circumstances.

(3) The Board shall not sanction any levy exceeding fifty per cent. of gross wages without the prior approval of the Central Government.

(4) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the purposes of the payment of the gross wages set out in clause 30 (6) and the percentage payments set out in paragraph (1) (a) and (b) of this clause, as the Board may consider necessary.

(5) The Administrative Body shall furnish from time to time to the Board all such statistical and other information as may reasonably be required relating to the operation and finance of the Scheme.

**42. Penalties.**—A contravention of clause 31 shall be punishable with imprisonment for a period not exceeding three months in respect of a first contravention or six months in respect of a subsequent contravention or with fine not exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

#### THE SCHEDULE—[See clause 2(2)]

*Classes or descriptions of dock work and dock workers to which the Scheme applies.*

1. Stevedoring work other than coal work.
2. The following categories of stevedore workers:—
  - (I) Foreman;
  - (II) Chargeman;
  - (III) Stevedore Tindal;
  - (IV) Winchman;
  - (V) Hatch-Foreman;
  - (VI) Khalasi;
  - (VII) Stevedore Worker;

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## CALCUTTA DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1951

### Arrangement of Paragraphs

1. Name of the Scheme.
2. Objects and Application.
3. Interpretations.
4. Calcutta Dock Labour Board—Establishment of.
5. Administrative Body.
6. Special Officer and other servants of the Board
7. Functions of the Board.

<sup>11</sup> Item “(VIII) Cleaning Tindal and (IX) Cleaning Worker” omitted by Notification No. S.R.O. 1267 dated the 14th July, 1952.

8. Functions of the Administrative Body.
9. Functions of the Special Officer.
- 9A. Officers appointed by the Central Government for proper working of the Scheme.
10. Maintenance of Registers, etc.—(1) Employers' Register, (2) Workers' Register.
11. Classification of workers in Registers.
12. Fixation of number of workers on the Register.
13. Registration of existing and new workers.
14. Transfer of workers.
15. Medical Examination.
16. Facilities for Training.
17. Registration Fee.
18. Supply of Cards.
19. Surrender of Cards.
20. Employment of workers.
21. Employment in shifts.
22. Filling up of casual vacancies.
23. Guaranteed Minimum Wages.
24. Attendance Wages.
25. Employment for a shift.
26. Disappointment Money.
27. Appeal Tribunal.
28. Registration Committee.
29. Obligations of registered dock workers.
30. Obligations of registered employers.
31. Restriction on employment.
32. Circumstances in which the Scheme ceases to apply.
33. Wages, allowances and other conditions of service.
34. Pay in respect of unemployment or underemployment.
35. Disentitlement to payment.
36. Disciplinary Procedure.
- 36A. Disciplinary Powers of the Chairman of the Board.
37. Termination of employment.
38. Appeals to Appeal Tribunal.
39. Appeal to Board.
40. Suspension of notice in case of certain appeals.
- 40A. Special provisions for action in an emergency.
41. Cost of operating the Scheme.
42. Penalties.

#### SCHEDULE.

### CALCUTTA DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1951<sup>1</sup>

In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government hereby makes the following Scheme for the Port of Calcutta, the same having been previously published as required by the said sub-section, namely:—

#### THE SCHEME

### CALCUTTA DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1951

1. **Name of the Scheme.**—The Scheme may be called the Calcutta Dock Workers (Regulation of Employment) Scheme, 1951, and is hereinafter referred to as the "Scheme".
2. **Objects and Application.**—(1) The Objects of the Scheme are to ensure greater regularity of employment for dock workers and to secure that an adequate number of dock workers is available for the efficient performance of dock work.

<sup>1</sup> The Scheme was published under the Ministry of Labour Notification No. S.R.O. 1586 dated the 5th October, 1951. On the basis of the findings and recommendations of the Dock Workers (Regulation of Employment) Enquiry Committee submitted to the Central Government on the 7th September, 1955, draft of the Revised Scheme was formulated and

(2) The Scheme relates to the Port of Calcutta and shall apply to the classes or descriptions of dock work and dock workers set out in the Schedule annexed to the Scheme:

Provided always that the Scheme shall not apply to any dock worker unless he is employed or registered for employment in connection with the loading, unloading, movement or storage of cargoes or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or for leaving port.

(3) The Scheme shall apply to registered dock workers and registered employers.

**3. Interpretations.**—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948);
- (b) "Administrative Body" means the Administrative Body appointed under clause 5;
- (c) "Board" means the Calcutta Dock Labour Board constituted under clause 4;
- (d) "cargo" and "dock worker" have the meanings respectively assigned to them in the Act;
- (e) "daily worker" means a registered dock worker who is not a monthly worker;
- (f) "dock employer" means the person by whom a dock worker is employed or is to be employed;
- (g) "dock work" means operations at places or premises to which the Scheme relates, ordinarily performed by dock workers of the classes or descriptions to which the Scheme applies;
- (h) "employer's register" means the register of dock employers maintained under the Scheme;
- (i) "monthly worker" means a registered dock worker who is engaged by a registered employer on monthly wages under a contract which requires at least one month's notice for its termination;
- (j) "register or record" means the register or record of dock workers maintained under the Scheme;
- (k) "registered dock worker" means a dock worker whose name is for the time being entered in the register or record;
- (l) "registered employer" means a dock employer whose name is for the time being entered in the employer's register;
- (m) "Registration Committee" means the Registration Committee appointed under clause 28;
- (n) "reserve pool" means a pool of registered dock workers who are available for work, and who are not, for the time being, in the employment of a registered employer as a monthly worker;
- (o) "week" means the period commencing from mid-night of Saturday and ending on the midnight of the next succeeding Saturday;
- (p) "Special Officer" means the special officer appointed under clause 6.

**4. Calcutta Dock Labour Board—Establishment of.**—(1) The Central Government shall, by Notification in the Official Gazette, constitute a Board<sup>2</sup> to be called the "Calcutta Dock Labour Board" which shall, subject to the provisions hereinafter contained, be responsible for the administration of the Scheme.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of twelve members to be appointed by the Central Government and shall include an equal number of members representing—

- (i) the Central Government,
- (ii) the dock workers, and
- (iii) the employers of dock workers and shipping companies.

(4) The Chairman of the Board shall be nominated by the Central Government from among the members representing the Government and the Vice-Chairman of the Board shall be elected by the members of the Board from among themselves.

published for eliciting public opinion. The Draft of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 was published under the Ministry of Labour Notification No. S.R.O. 611 dated the 6th March, 1956 in the Gazette of India Extraordinary, dated the 8th March, 1956, Part II—Section 3, pages 447-471. The Draft contains 56 clauses as compared to existing 42 clauses.

<sup>2</sup> Calcutta Dock Labour Board was constituted under the Ministry of Labour Notification No. S.R.O. 1510 dated the 2nd September, 1952 published in the Gazette of India Extraordinary, 1952, Part II—Sec. 3, p. 833.

(5) The persons representing respectively the dock workers and the employers shall be appointed after consulting such Associations of persons as appear to the Central Government to be representative of such workers and such employers.

(6) There shall be paid to the non-official members of the Board such salaries, fees and allowances as may subject to the approval of the Central Government, be determined by the Board, from time to time.

(7) (a) The members of the Board shall hold office for three years and shall be eligible for re-appointment. A member appointed to fill a casual vacancy shall hold office for the unexpired portion of the term of the person in whose place he is appointed.

(b) A member, other than the Chairman, may resign his office by a letter in writing addressed to the Chairman.

(c) The Chairman may resign his office by a letter in writing addressed to the Central Government.

(d) If a member proposes to proceed out of India, he shall, before doing so intimate to the Chairman, the anticipated date of his departure from, and of his return to India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation.

(e) A member shall be deemed to have vacated his office:—

(i) if he proceeds out of India without complying with the provisions of sub-clause (7)(d);

(ii) if he becomes an insolvent;

(iii) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(iv) if he is absent from three consecutive meetings of the Board without leave of absence from the Chairman;

(v) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or employers of dock workers and shipping companies ceases to be representative of dock workers or their employers or the shipping companies, as the case may be; or

(vi) if, in the opinion of the Central Government, it is undesirable that he should continue to be a member.

(8) No act done by the Board shall be questioned merely on the ground of the existence of any vacancy in, or defect in the constitution of the Board.

(9) The quorum and procedure of the Board shall be such as the Board may from time to time determine.

(10) If any question arises for the decision of the Board, it shall be decided by a resolution of the majority of the members of the Board present and voting.

**5. Administrative Body.**—(1) The Central Government may, by notification in the Official Gazette, constitute a body consisting of such employers of dock workers as the Central Government may nominate in this behalf or appoint any other authority or any person for the purpose of carrying on the day-to-day administration of the Scheme.

(2) The Administrative Body shall subject to the supervision and control of the Board and subject to the provisions of clause 9 carry on the day-to-day administration of the Scheme.

(3) The Central Government may for sufficient cause remove any authority appointed under sub-clause (1):

Provided that no such authority shall be removed unless it has been given a reasonable opportunity of being heard.

**6. Special Officer and other servants of the Board.**—The Board may appoint a Special Officer and such other officers and servants and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit;

Provided that no post carrying a salary of rupees five hundred per mensem or more, shall be created and no appointment to such post shall be made by the Board except with the previous approval of the Central Government.

**7. Functions of the Board.**—(1) The Board may take such measures as it may consider desirable for furthering the objectives of the Scheme set out in clause 2, including measures for;

(a) ensuring the full and proper utilisation of dock labour for the purpose of facilitating the rapid and economic turnaround of vessels and the speedy transit of goods through the port;

- (b) regulating the recruitment and entry into and the discharge from the Scheme of dock workers and the allocation of registered dock workers to registered employers;
- (c) determining and keeping under review in consultation with the Administrative Body the number of registered employers and registered dock workers from time to time on the registers or records and the increases or reductions to be made in the numbers in any such registers or records;
- (d) keeping, adjusting and maintaining the employers' register, entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (e) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary, of dock workers including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;
- (f) the grouping or regrouping of all registered dock workers into such groups as may be determined by the Board after consultation with the Administrative Body and thereafter reviewing the grouping of any registered dock worker on the application of the Administrative Body or of the registered dock worker;
- (g) making satisfactory provision for the training and welfare of registered dock workers including medical services, in so far as such provision does not exist apart from the Scheme;
- (h) levying and recovering from registered employers contributions in respect of the expenses of the Scheme;
- (i) making satisfactory provision for health and safety measures in places where dock workers are employed in so far as such provision does not exist apart from the Scheme;
- (j) borrowing or raising money and issuing debentures or other securities and, for the purpose of securing any debt or obligation, mortgaging or charging all or any part of the property of the Board.

(2) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Scheme and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever by way of benefit to the members of the Board, provided that nothing herein shall prevent the payment of reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return for any services actually rendered to the Board, nor prevent the payment of interests at a reasonable rate on money lent or reasonable and proper rent for premises demised or let by any member to the Board.

(3) The Board shall cause proper accounts to be kept of the costs of operating the Scheme and of all receipts and expenses under the Scheme.

(4) The Board shall submit to the Central Government an annual report on the working of the Scheme and an audited balance sheet.

**8. Functions of the Administrative Body.**—Without prejudice to the powers and functions of the Board, <sup>3</sup>[and subject to the provisions of clause 9-A] the Administrative Body shall be responsible for the administration of the Scheme and shall in particular be responsible for—

- (a) the keeping, adjusting and maintaining the employers' register, entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme.
- (b) the keeping, adjusting and maintaining from time to time such registers or records as may be necessary, of dock workers including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circum-

<sup>3</sup> Inserted by the Ministry of Labour Notification No. S. R. O. 2669, dated the 5th August, 1954 and will be valid up to 31st July, 1956 as per Notification No. S. R. O./CDWS/Am. (1)/56 dated the 27th January, 1956..

stances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;

- (c) the employment and control of registered dock workers available for work when they are not otherwise employed in accordance with the Scheme;
  - (d) the grouping or re-grouping of registered dock workers in accordance with instructions received from the Board in such groups as may be determined by the Board;
  - (e) the allocation of registered dock workers who are available for work to registered employers and for this purpose the Administrative Body shall—
    - (i) be deemed to act as an agent for the employer,
    - (ii) make the fullest possible use of registered dock workers in the Reserve Pool,
    - (iii) keep the record of attendance, at call stands or control points, of registered dock workers,
    - (iv) provide for the maintenance of the records of employment and earnings,
    - (v) subject to the allotment of work by rotation under clause 21(3), follow the principle of seniority, i.e., a worker shall not be allocated unless all registered workers of the same category above him in the register have been allocated;
  - (f) (i) the payment as agent of the registered employer to each daily worker of all earnings properly due to the worker from the employer, and the payment to such workers of all monies payable by the Board to those workers in accordance with the provisions of the Scheme;
  - (ii) the payment of the employer's contribution to any scheme of insurance constituted under any Act in respect of daily workers and the custody and stamping of their insurance books or cards;
  - (iii) the payment of the employer's contribution to any scheme of Provident Fund established for daily workers;
  - (g) appointing, subject to budget provision, such officers and servants from time to time as may be necessary;
- Provided that the creation of posts carrying a pay of Re 250 or over per month and appointment of persons to such posts shall be subject to the prior approval of the Board.
- (h) the keeping of proper accounts of the cost of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet;
  - (i) the framing of budget annually and for getting it approved by the Board; and
  - (j) such other functions as may from time to time be delegated to it by the Board

**9. Functions of the Special Officer.**—(1) 4[Subject to the provisions of clause 9-A and clause 36-A] the Special Officer shall discharge all functions relating to disciplinary action against registered employers and daily workers and shall in particular be responsible for taking action under clauses 35, 36 and 37.

(2) The Board may entrust to the Special Officer either of its own motion or at the instance of the Administrative Body such other functions as the Board may deem fit.

**4[9-A. Officers appointed by the Central Government for proper working of the Scheme.**—(1) Notwithstanding the provisions of clause 5, clause 6, clause 8 and clause 9 the Central Government may in its discretion appoint from time to time in consultation with the Chairman of the Board one or more officers and entrust to such officer or officers such functions as it may deem fit for the purpose of the proper working of the Scheme.

(2) Such officer or officers shall be subject to the general supervision and control of the Board and shall hold office for such period and on such terms and conditions as the Central Government may consider necessary.]

**10. Maintenance of Registers, etc.**—(1) **Employers' Register.**—(a) There shall be a register of employers.

(b) In so far as the application of the Scheme to stevedore labour is concerned, every stevedore, who is working as a stevedore in the port of Calcutta on the date of constitution of the Board shall be entitled to be registered under the Scheme; but no such person shall

<sup>4</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 2669, dated the 5th August, 1954. Will be valid upto 31st July, 1956.

be so entitled unless he applies for registration on or before the date fixed by the Board for this purpose:

Provided that no such person shall be entitled to registration unless he satisfies the Board that he has at least such minimum number of monthly paid workers in his permanent employment and such minimum gear required to clear a ship of general cargo, <sup>5</sup>[as may be considered to be adequate in the opinion of the Board exercising its discretion in the particular case, or applying standards, if any, prescribed by it in writing;]

Provided further that the Board may instead of refusing registration under the preceding proviso grant such time as it considers reasonable to enable the person concerned to fulfil <sup>6</sup>[the adequate or prescribed requirements] and grant him temporary registration during the period so allowed.

(c) Persons other than those registered under sub-clause (b) shall not be registered as stevedores,

(i) unless the Board considers it expedient and necessary to do so; and

(ii) except subject to such conditions as the Board may in consultation with the Port Authority prescribe.

(d) A registration fee of Rs. 500 shall be payable to the Board by every stevedore.

(2) **Workers' Registers.**—(a) The workers' registers shall be maintained in the forms devised by the Registration Committee and approved by the Board for the purpose.

(b) The registers of stevedore workers shall be as under, namely:—

(i) *Monthly Register.*—Register of workers who are engaged by each stevedore on contract on monthly wages and who are known as monthly workers.

(ii) *Reserve Pool Register.*—Register of workers other than those on the monthly register. No vacancy occurring in the Reserve Pool Register shall be filled by the Administrative Body until the appropriate Employment Exchange has indicated its inability to supply suitable applicants.

11. **Classification of workers in Registers.**—(i) The Registration Committee shall arrange for the classification of workers by categories in the registers.

(ii) Stevedore labour shall be classified in the following categories:—

(a) Deck Foremen.

(b) Hatch Foremen or Gunners

(c) Winchmen.

(d) Sirdars.

(e) Mates.

(f) Senior Kamalias.

(g) Junior Kamalias.

(h) Senior Rolias.

(i) Junior Rolias.

(j) Clerks.

12. **Fixation of number of workers on the Register.**—The total number of workers in each category shall be determined by the Board in consultation with the Port Authority and the Administrative Body.

13. **Registration of existing and new workers.**—(1) Any dock worker who, on the date of constitution of the Board is in the employment of any employer to whom the Scheme applies and who applies for registration on or before the date fixed by the Board in this behalf shall be eligible for registration.

(2) New workers will be selected for registration by the Registration Committee out of the list submitted by the Employment Exchange. The qualifications for such selection shall be age not exceeding forty years, physical fitness, capacity and/or experience. Preference will be given to Indian citizens.

(3) New workers to be selected for registration will be on probation for a period of three months before being placed on a permanent basis in the registers.

(4) If the Board is of opinion that any dock worker has secured his registration by supplying any false information in his application or by withholding any information required therein, the Board may direct the removal of his name from the register:

Provided that before the name of a dock worker is removed from the register, he shall be given an opportunity to show cause why his name should not be so removed.

14. **Transfer of workers.**—(1) A vacancy in any category of workers in a register shall ordinarily be filled by promotion of a worker from the next lower category.

<sup>5</sup> Substituted by Notification No. S.R.O. 1533 dated the 3rd May, 1954.

<sup>6</sup> Substituted, *ibid.*



(2) A vacancy in any category of monthly workers may be filled *only* by promotion from lower categories of monthly workers or, if no person is suitable for promotion from lower categories of monthly workers, by transfer of a senior worker in the same or a superior category of the Reserve Pool workers.

**Explanation.**—The criteria for promotion or transfer shall ordinarily be the following, *viz.*—

- (a) seniority,
- (b) merit and fitness for work in the category to which promotion is to be made, and
- (c) record of past service:

<sup>7</sup>[Provided that nothing contained in sub-clause (1) or in this sub-clause shall apply to the allocation of monthly gangs to registered employers by any officer appointed by the Central Government under clause 9A.]

(3) If the services of a monthly worker are terminated by the employer he shall be entitled to registration in the Reserve Pool in a similar category and his previous service shall be reckoned for all benefits in the Reserve Pool and the employer shall transfer to the Board all benefits that have accrued to the worker in respect of previous service as if such service had not been terminated unless the Board decides that for some special reason the worker is unfit to be re-employed as a dock worker. The employer shall in particular contribute to the Board such amount as may be appropriate towards the worker's leave that may be due to him on the date of such transfer.

<sup>8</sup>[(4) Notwithstanding anything contained in sub-clause (3) or in the definition of 'monthly worker' in paragraph (i) of clause 3, an officer appointed by the Central Government under clause 9-A shall have power to revert a monthly gang to the Reserve Pool without any notice whatsoever and when in exercise of that power any reversion is made, such reversion shall take effect from such date as may be specified by that officer in the order making the reversion.]

**15. Medical Examination.**—If the Administrative Body deems it necessary, a worker shall undergo free of charge medical examination by a Medical Board to be constituted by the Board.

**16. Facilities for Training.**—Adequate facilities for training should be provided for workers by the Board.

**17. Registration Fee.**—A registration fee of rupees two shall be payable to the Board by each worker:

Provided however that the fee for workers registered at the commencement of the Scheme shall be rupee one.

**18. Supply of Cards.**—(1) Every registered worker shall be supplied, free of cost, with the following cards in the forms prescribed by the Board, namely:—

- (i) Identity Card.
- (ii) Attendance and Wage Card.

(2) In case of loss of a card, a fresh card will be issued but the cost thereof, which will be fixed by the Board, shall be payable by the worker concerned.

**19. Surrender of Cards.**—A worker's cards shall be surrendered to the Administrative Body in the following cases and circumstances, namely:—

- (a) when proceeding on leave.
- (b) when retiring from service.
- (c) when dismissed or discharged from service.
- (d) when temporarily suspended, or
- (e) on death.

**20. Employment of workers.**—(1) Workers on the Monthly Register attached to a registered employer shall be entitled to be employed by that employer in preference to any worker in the Reserve Pool Register.

(2) For work which cannot be done by those on the Monthly Register, workers on the Reserve Pool Register shall be employed.

**21. Employment in shifts.**—(1) Workers will be employed in shifts.

(2) Workers will not ordinarily be employed in two consecutive shifts in a day and in no case will workers on the Monthly Register be employed on a second shift so long as workers in a similar category are available on the Reserve Pool Register for work in that shift.

<sup>7</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 2669 dated the 5th August, 1954. Will be valid upto 31st July 1956.

<sup>8</sup> Inserted, *ibid.* Will be valid up to 31st July, 1956.

(3) Workers of each category on the Reserve Pool Register shall be allotted work by rotation.

(4) Where work is carried on by a gang the allotment of workers by rotation shall be by gangs.

**22. Filling up of casual vacancies.**—Casual vacancies in the Monthly and Reserve Pool Gangs will be filled up in the following manner:—

When a sirdar is absent, the senior man in the same gang will work as a sirdar.

In the vacancies of workers in the gangs, workers from the Reserve Pool will be employed by rotation.

**23. Guaranteed Minimum Wages.**—A worker on the Reserve Pool Register shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs, even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above.

**24. Attendance Wages.**—Subject to the provisions of the Scheme, a worker of the Reserve Pool Register who is available for work but for whom no work is found shall be paid attendance wages at the rate of rupee one per day for the days on which no work was found for him during a calendar month. Provided that no attendance wages will be payable for any day for which full wages inclusive of dearness allowance, have been paid under clause 23 or otherwise or for which disappointment money is paid under clause 26.

**25. Employment for a shift.**—No worker in the Reserve Pool Register shall be employed for a period of less than a shift and where the work for which a worker has been engaged is completed during the working period of the shift he shall undertake such other work in or at the same or another vessel or berth as may be required by the same employer for the remainder of the period and if no such other work is made available to him, he shall be paid for the entire shift.

**26. Disappointment Money.**—When a worker in the Reserve Pool presents himself for work and for any reason beyond the control of the employer, the work for which he has attended cannot proceed and no alternative work can be found for him and he is relieved within 2 hours of his attending for work he will be entitled to disappointment money equal to half the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs. A worker detained for more than 2 hours shall be paid full wages inclusive of dearness allowance.

**27. Appeal Tribunal.**—(1) The Central Government shall appoint one or more Appeal Tribunals for the purposes of hearing appeals under the Scheme.

(2) The Appeal Tribunal shall consist of not more than three persons, who shall not be members of the Board or otherwise connected with the administration of the Scheme.

**28. Registration Committee.**—The Board may appoint one or more Registration Committees, to whom it may delegate such duties as it may think fit in relation to the registration both of dock workers and of employers of dock workers.

**29. Obligations of registered dock workers.**—(1) Every registered dock worker shall be deemed to have accepted the obligations of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall be deemed to be in the employment of the Board.

(3) A registered dock worker who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the Administrative Body.

(4) A registered dock worker in the Reserve Pool who is available for work shall carry out the directions of the Administrative Body and shall—

(a) report at such call stands or control points and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points for such period, not exceeding one hour from the commencement of the shift, as may be so specified; and

(b) accept any employment in connection with dock work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

(5) A registered dock worker who is available for work when allocated by the Administrative Body for employment under a registered employer shall carry out his duties in accordance with the directions of such registered employer and the rules of the port or place where he is working.

**30. Obligations of registered employers.**—(1) Every registered employer shall accept the obligations of the Scheme.

(2) A registered employer shall not employ a worker other than a worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 8(e).

(3) Unless otherwise directed by the Administrative Body a registered employer shall, on the engagement of a registered dock worker who is available for work obtain his record book or wage card and stamp it in respect of each period of work and return it to him at the conclusion of his engagement.

(4) A registered employer shall, in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.

(5) A registered employer shall, in accordance with directions given by the Administrative Body, lodge with the latter a return of the gross wages (including overtime and allowances and without deductions of any kind) due from him to each registered dock worker engaged by him in respect of the period covered by the return.

(6) A registered employer shall pay to the Administrative Body in such manner and at such times as the Board may direct the total amount of the gross wages due to daily workers specified in the return made under the preceding paragraph.

(7) A registered employer shall keep such records as the Board may require and shall produce to the Board or to such persons as may be designated by the Board upon reasonable notice all such records and any other documents of any kind relating to registered dock workers and to the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice or direction issued by or on behalf of the Board.

**31. Restriction on employment.**—(1) No person other than a registered employer shall engage for employment or employ any worker on dock work nor shall a registered employer engage for employment or employ a worker on dock work unless that worker is a registered dock worker.

(2) Notwithstanding the foregoing provisions of this clause—

(a) where the Administrative Body is satisfied that—

(i) dock work is emergently required to be done; and

(ii) it is not reasonably practicable to obtain a registered dock worker for that work, the Administrative Body may, subject to any limitations imposed by the Board, allocate to a registered employer a person who is not a registered dock worker. In selecting such workers the local Employment Exchange organisation shall, as far as possible, be consulted.

(b) in the case referred to in sub-paragraph (a) the person so employed as aforesaid by a registered employer shall, for the purposes of clause 30(5), (6) and (7) and clause 33, be treated in respect of that dock work as if he were a daily worker.

**32. Circumstances in which the Scheme ceases to apply.**—(1) The Scheme shall cease to apply to a registered dock worker when his name has been removed from the register or record in accordance with the provisions of the Scheme.

(2) The Scheme shall cease to apply to a registered employer when his name has been removed from the employers' register in accordance with the provisions of the Scheme.

(3) Nothing in this clause shall affect any obligation incurred or right accrued during any time when the person was a registered dock worker or a registered employer, as the case may be.

**33. Wages, allowances and other conditions of service.**—It shall be an implied condition of the contract between a registered dock worker (whether monthly or daily), and a registered employer—

(a) that the rates of wages, allowances, and overtime, hours of work, rest, intervals, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers, and

(b) that the fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

**34. Pay in respect of unemployment or underemployment.**—(1) Subject to the conditions set out in this and the next following clause, when, in any wage period, a registered

dock worker in the Reserve Pool is available for work but is not given employment or full employment, he shall be entitled to receive from the Board such amounts as may be admissible to him under clauses 23, 24 and 26.

(2) The conditions subject to which a registered dock worker is entitled to the said payment (if any) from the Board are that—

(a) he attended as directed at the call stands or control points or was excused from attendance; and

(b) his attendance or his excused attendance was recorded.

**35. Disentitlement to payment.**—(1) A registered dock worker available for work who while in the Reserve Pool fails without adequate cause to comply with the provisions of clause 29(4) (a) or (b) or fails to comply with any lawful order given to him by or on behalf of the Board, may be reported in writing to the Special Officer.

(2) A registered dock worker in the Reserve Pool available for work who while in employment to which he has been allocated by the Administrative Body fails without any adequate cause to comply with the provisions of clause 29(5) or fails to comply with any lawful orders given to him by his employer, may have his engagement terminated and may be returned to the Reserve Pool, and whether or not he is so returned may be reported in writing to the Special Officer. When a registered dock worker is so returned to the Reserve Pool, his record book or wage card shall be returned to the Administrative Body.

(3) The Special Officer shall consider any written report received under paragraph (1) or (2) and if after investigating the matter he notifies the registered dock worker and the Administrative Body that he is satisfied that the registered dock worker has failed to comply with a lawful order as aforesaid, the registered dock worker shall not be entitled to any payment or to such part of any payment under clause 34 as the Special Officer thinks fit in respect of the wage period in which such failure occurred or continues.

**36. Disciplinary procedure.**—(1) The Special Officer, on receipt of information whether on a complaint or otherwise, that a registered employer has failed to carry out the provisions of the Scheme, and after investigating the matter, may take any of the following steps as regards that employer, that is to say, he may—

(a) give the registered employer a warning in writing, or

(b) subject to the approval of the Board and after one month's notice in writing given to the registered employer by the Special Officer inform the Administrative Body that the name of the registered employer shall be removed from the employers' register for such period, as determined by the Board.

(2) A registered dock worker in the Reserve Pool who is available for work and fails to comply with any of the provisions of the Scheme, or commits any act of indiscipline or misconduct may be reported in writing to the Special Officer, who may, after investigating the matter and without prejudice to and in addition to the powers conferred by clause 35, take any of the following steps as regards that worker, that is to say, he may—

(a) determine that, for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34;

(b) give him a warning in writing;

(c) suspend him without pay for a period not exceeding three days;

(d) give him fourteen days' notice of termination; or

(e) dismiss him.

<sup>9</sup>[(2A) When in a case reported to the Special Officer under sub-clause (2) he is of opinion that the act of indiscipline or misconduct is so serious that the worker should not be allowed to work any longer, the Special Officer may, pending investigation of the matter and the passing of orders thereon under sub-clause (2), by order in writing delivered to the worker, suspend him.]

<sup>9</sup>[(2B) Where a worker has been suspended by an order under sub-clause (2A), he shall for the period of suspension be paid a subsistence allowance equivalent to the attendance wages provided in clause 24, and such allowance shall not be recoverable or liable to forfeiture in any case whatsoever:]

Provided that where a worker is found not guilty, he shall be entitled to such payments as he would have received under clause 34, the period of suspension being treated as excused attendance for the purpose of that clause:

Provided further that where subsistence allowance has been paid during a particular period, attendance wages under clause 24 shall not be payable in respect of that period.]

<sup>9</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 3524 dated the 29th November, 1954.

(3) Before any action is taken under sub-clause (1) or (2), the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him.

(4) The Administrative Body shall be informed simultaneously about the action taken under <sup>10</sup>[sub-clauses (1), (2) and (2A).]

<sup>11</sup>**36A. Disciplinary Powers of the Chairman of the Board.**—(1) Notwithstanding anything contained in this Scheme, if the Chairman of the Board is satisfied that a "go-slow" has been resorted to by any gang of registered dock workers or by any such individual worker, he may make a declaration in writing to that effect.

(2) When a declaration under sub-clause (1) has been made, it shall be lawful for the Chairman—

- (i) in the case of monthly workers, to take, without prejudice to the rights of the registered employers, such disciplinary action including dismissal, against such workers, as he may consider appropriate; and
  - (ii) in the case of Reserve Pool workers, to take such disciplinary action including dismissal, against such workers as he may consider appropriate and also to order forfeiture of their guaranteed minimum wages and attendance wages for the wage period or periods in which the "go-slow" has been resorted to.
- (3) The Chairman may take disciplinary action—
- (i) where the "go-slow" is resorted to by a gang against all the members of the gang; and
  - (ii) where the "go-slow" is resorted to by a worker not belonging to any gang, against the worker concerned.

(4) Before any disciplinary action is taken under this clause against any worker or any gang of workers, such worker or gang shall be given an opportunity to show cause why the proposed action should not be taken against him;

Provided that the Chairman may, before giving an opportunity to show cause under this sub-clause, suspend from work any worker or gang of workers immediately after a declaration has been made under sub-clause (1).

(5) A declaration by the Chairman of the Board that a "go-slow" has been resorted to by a worker or a gang of workers shall be final and shall not be liable to be questioned on any ground or in any manner whatsoever.]

**37. Termination of employment.**—(1) The employment of a registered dock worker in the Reserve Pool who is available for work shall not be terminated by the Special Officer except—

- (a) by dismissal in the case of misconduct; or
- (b) by giving him fourteen days' notice in writing for any other justifiable cause; or
- (c) so as to enable the worker to be employed in accordance with the provisions of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall not leave his employment with the Board except by giving fourteen days' notice in writing to the Board or except where he is to be employed in accordance with the provisions of the Scheme.

(3) Where the employment of a registered dock worker by the Board has been terminated under paragraph (1) (a) or (b), or under paragraph (2) by a notice given by him, his name shall forthwith be removed from the register or record by the Administrative Body.

**38. Appeals to Appeal Tribunal.**—(1) If a registered dock worker who is available for work is aggrieved by any order under which he—

- (a) is not entitled to any payment under clause 34 by reason of any of the grounds specified in clause 35 or 36; or
- (b) is suspended from the Scheme; or
- (c) is not properly grouped or regrouped in the register or record; or
- (d) is to be removed from the register or record under paragraphs (1) (a) and (3) of clause 37; or
- (e) is to be given a notice of termination of his employment in accordance with paragraph (1) (b) of clause 37:

he may within fourteen clear days of the date of the order or, as the case may be, of the

<sup>10</sup> Substituted by Notification No. S.R.O. 3524 dated the 29th November, 1954.

<sup>11</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 2669, dated the 5th August, 1954. Will be valid upto 31st July, 1956.

date of the receipt of the notice terminating his employment, prefer an appeal in writing to the Appeal Tribunal:

Provided that the Appeal Tribunal may, for reasons to be recorded, admit an appeal preferred after the expiry of fourteen days.

Provided further that no such appeal shall lie where due notice has been given of the removal of the name of the registered dock worker from the register or record in accordance with the instructions of the Board, if the ground of removal is that the registered dock worker falls within a class or description of dock workers whose names are to be removed from the register or record in order to reduce the size thereof:

Provided further, that an appeal shall lie where the registered dock worker alleges that he does not belong to the class or description of dock workers referred to in the preceding proviso.

(2) The Appeal Tribunal shall, as soon as practicable, hear and decide the appeal, and if the appeal is allowed, it shall have power to order that the appellant shall be entitled to receive any payment or any part thereof which may be held to be due to him under clause 34 or that he shall be grouped in accordance with the decision of the Tribunal from such date as it may fix or that his name shall be restored in the register or record as from such date as it may fix. The Appeal Tribunal shall also have the power to vary, modify or alter the penalty imposed but it shall not have power to increase any penalty imposed or to impose a more severe penalty.

(3) An appellant shall not be entitled to be represented by a legal practitioner before the Appeal Tribunal, but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a registered dock worker.

(4) The decision of a majority of an Appeal Tribunal shall be the decision of the Tribunal and shall be final and conclusive. Such decision shall be forthwith given effect to by the Board and the Administrative Body.

**39. Appeal to Board.**—(1) A registered employer who is aggrieved by an order,

(a) giving him a warning in writing under clause 36(1) (a), or

(b) directing a notice to be given to him under clause 36(1) (b) that his name will be removed from the employers' register,

may within fourteen clear days of the date of the order or as the case may be, the date of receipt of the notice of removal from the employers' register, prefer an appeal to the Board, who shall forthwith refer the matter to the Central Government. The Central Government shall make such order on the appeal as it thinks fit

(2) A stevedore or a worker who has been refused registration under clause 10(1) (b), clause 10(1) (c) or clause 13 as the case may be, or who has been wrongly classified under clause 11 shall have a right of appeal to the Board within fourteen clear days of the date of such refusal and if the original refusal is by the Board the appeal shall lie to the Appeal Tribunal.

(3) A registered dock worker in the Reserve Pool who is aggrieved by an order of the Administrative Body, made under clause 29(4) (b), requiring him to undertake any work, which is not of the same category to which he belongs, may prefer an appeal to the Board within fourteen clear days of the date of such order.

**40. Suspension of notice in case of certain appeals.**—Where an appeal is lodged in accordance with the provisions of clause 38, the Appeal Tribunal may suspend the operation of the order appealed from (except where the order is of dismissal or of disentitlement under clause 35) pending the hearing and disposal of the appeal.

**12[40-A. Special provisions for action in an emergency.**—(1) If at any time the Chairman of the Board is satisfied that an emergency has arisen which will seriously affect the working of the port, he may, by order in writing and for such period as he may from time to time specify therein, make a declaration to that effect:

Provided that no such declaration shall be made except with the previous approval of the Central Government.

(2) So long as an order under sub-clause (1) is in force, the following provisions shall apply, namely:—

(i) If any allegation is made that a registered employer has failed to carry out the provisions of the Scheme, the Chairman may, after holding a summary inquiry into the allegation, take any of the following steps as regards that employer, that is to say, he may—

(a) give the registered employer a warning in writing, or

<sup>12</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 1249 dated the 31st May, 1955.

(b) direct that the name of the registered employer shall be removed forthwith from the employers' register either permanently or for such period as he may determine.

(ii) If any allegation of indiscipline, "go-slow" or mis-conduct is made against a registered dock worker, the Chairman may suspend him forthwith pending inquiry, hold a summary inquiry into the allegation and take any of the following steps against that worker, that is to say, he may—

(a) determine that for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34,

(b) give him a warning in writing,

(c) suspend him without pay for a period not exceeding three days,

(d) give him fourteen days' notice of termination, or

(e) dismiss him.

(3) The provisions of the Scheme relating to disciplinary action against registered employers and registered dock workers shall not apply to any order passed by the Chairman under paragraph (i) or paragraph (ii) of sub-clause (2).

(4) No appeal shall lie from any order passed by the Chairman under paragraph (i) or paragraph (ii) of sub-clause (2).]

**41. Cost of operating the Scheme.**—(1) The cost of operating the Scheme shall be defrayed by payments made by registered employers to the Board in the manner following:—

Every registered employer shall pay to the Board—

(a) such amount, whether by way of percentage on the gross wages payable by him under clause 30 (6) or as otherwise agreed, together with and at the same time as the payment of those wages; and

(b) at the same time as the payment under sub-paragraph (a), such amount whether by way of percentage on the gross wages shown as due to monthly workers in the return made under clause 30 (5) or as otherwise agreed;

as the Board may in either case from time to time notify by public notice

<sup>13</sup>[Provided that, where wages are payable to workers at an interval of less than a month, the Board may in its discretion allow the amounts, other than gross wages, payable under sub-clause (1) to be paid monthly by such time as the Board may prescribe in this behalf.]

(2) In determining what payments are to be made by registered employers under paragraph (1) of this clause, the Board may fix different percentages for different categories of work or workers, provided that the percentages shall be so fixed that the like percentages will apply to all dock employers who are in like circumstances.

(3) The Board shall not sanction any levy exceeding fifty per cent of gross wages without the prior approval of the Central Government.

(4) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the purposes of the payment of the gross wages set out in clause 30(6) and the percentage payments set out in paragraphs (1) (a) and (b) of this clause, as the Board may consider necessary.

(5) The Administrative Body shall furnish from time to time to the Board all such statistical and other information as may reasonably be required relating to the operation and finance of the Scheme.

<sup>14</sup>[(6) If any registered employer fails to make the payments due from him under sub-clause (1) within the time prescribed by the Board, the Board may, after giving notice to him in this behalf, suspend the supply of registered dock workers to him for such period as it may specify in this behalf but not beyond the date on which he makes such payments.]

**42. Penalties.**—A contravention of clause 31 shall be punishable with imprisonment for a period not exceeding three months in respect of a first contravention or six months in respect of a subsequent contravention or with fine not exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

<sup>13</sup> Inserted by Ministry of Labour Notification No. S.R.O. 819 dated the 6th April, 1955.

<sup>14</sup> Inserted, *ibid*.

THE SCHEDULE—[See clause 2(2)]

*Classes or descriptions of dock work and dock workers to which the Scheme applies.*

1. Stevedoring work other than coal and salt work.
2. The following categories of stevedore workers:--
  - (I) Deck Foremen.
  - (II) Hatch-Foremen or Gunners.
  - (III) Winchmen.
  - (IV) Sirdars.
  - (V) Mates.
  - (VI) Senior Kamalias.
  - (VII) Junior Kamalias.
  - (VIII) Senior Rolias.
  - (IX) Junior Rolias.
  - (X) Clerks.

**MADRAS DOCK WORKERS (REGULATION OF EMPLOYMENT)  
SCHEME, 1952**

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**SCHEDULE.**



## **MADRAS DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1952<sup>1</sup>**

In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government hereby makes the following Scheme for the Port of Madras, the same having been previously published as required by the said sub-section, namely:—

### **THE SCHEME**

## **MADRAS DOCK WORKERS (REGULATION OF EMPLOYMENT) SCHEME, 1952**

**1. Name of the Scheme.**—This Scheme may be called the Madras Dock Workers (Regulation of Employment) Scheme, 1952, and is hereinafter referred to as "the Scheme."

**2. Objects and Application.**—(1) The Objects of the Scheme are to ensure greater regularity of employment for dock workers and to secure that an adequate number of dock workers is available for the efficient performance of dock work.

(2) The Scheme relates to the Port of Madras and shall apply to the classes or descriptions of dock work and dock workers set out in the Schedule annexed to the Scheme:

Provided always that the Scheme shall not apply to any dock worker unless he is employed or registered for employment in connection with the loading, unloading, movement or storage of cargoes or work in connection with the preparation of ships or other vessels for the receipt or discharge of cargoes or for leaving port.

(3) The Scheme shall apply to registered dock workers and registered employers.

**3. Interpretations.**—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "the Act" means the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948);
- (b) "Administrative Body" means the Administrative Body appointed under clause 5;
- (c) "Board" means the Madras Dock Labour Board constituted under clause 4;
- (d) "cargo" and "dock worker" have the meanings respectively assigned to them in the Act;
- (e) "daily worker" means a registered dock worker who is not a monthly worker;
- (f) "dock work" means operations at places or premises to which the Scheme relates, ordinarily performed by dock workers of the classes or descriptions to which the Scheme applies;
- (g) "employer's register" means the register of dock employers maintained under the Scheme;
- (h) "monthly worker" means a registered dock worker who is engaged by a registered employer on monthly wages under a contract which requires at least one month's notice for its termination;
- (i) "register or record" means the register or record of dock workers maintained under the Scheme;
- (j) "registered dock worker" means a dock worker whose name is for the time being entered in the register or record;
- (k) "registered employer" means a dock employer whose name is for the time being entered in the employer's register;
- (l) "Registration Committee" means the Registration Committee appointed under clause 28;
- (m) "reserve pool" means a pool of registered dock workers who are available for work, and who are not, for the time being, in the employment of a registered employer as a monthly worker;

<sup>1</sup> The Scheme was published under the Ministry of Labour Notification No. S.R.O. 431 dated the 8th March, 1952, in the Gazette of India, 1952, Part II—Sec. 3. p. 388-398.

The Central Government has formulated the Revised Scheme in March, 1956 repealing the 1952 Scheme on the basis of the Recommendations of the Dock Workers (Regulation of Employment) Committee and published the Revised Draft in the Gazette of India Extraordinary dated the 8th March, 1956, Part II—Section 3, pages 423-446 under the Ministry of Labour Notification No. S.R.O. 610 dated the 6th March, 1956 for eliciting public opinion. The Draft contains 56 clauses as compared to the existing 42 clauses.

(\*) "week" means the period commencing from mid-night of Saturday and ending on the midnight of the next succeeding Saturday;

(o) "Special Officer" means the special officer appointed under clause 6.

4. **Madras Dock Labour Board—Establishment of.**—(1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be called the "Madras Dock Labour Board" which shall, subject to the provisions hereinafter contained, be responsible for the administration of the Scheme.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of twelve members to be appointed by the Central Government and shall include an equal number of members representing—

- (i) the Central Government,
- (ii) the dock workers, and
- (iii) the employers and shipping companies.

(4) The Chairman of the Board shall be nominated by the Central Government from among the members representing the Government and the Vice-Chairman of the Board shall be elected by the members of the Board from among themselves.

(5) The persons representing respectively the dock workers and the employers shall be appointed after consulting such Associations of persons as appear to the Central Government to be representative of such workers and such employers.

(6) There shall be paid to the non-official members of the Board such salaries, fees and allowances as may subject to the approval of the Central Government, be determined by the Board, from time to time.

(7) (a) A member of the Board shall hold office for a period of three years from the date of the notification appointing him as a member and shall be eligible for re-appointment:

Provided that an out-going member shall continue in office until the appointment of his successor is notified in the Official Gazette.

(b) A member appointed to fill a casual vacancy shall hold office for the unexpired portion of the term of the person in whose place he is appointed.

(c) A member other than the Chairman, may resign his office by letter under his hand addressed to the Chairman.

(d) The Chairman may resign his office by letter under his hand addressed to the Central Government.

(e) If a member proposes to proceed out of India, he shall, before doing so intimate to the Chairman, the proposed date of his departure from, and of his return to, India and, if he intends to be absent from India for a period exceeding six months, he shall tender his resignation.

(f) A member shall be deemed to have vacated his office:—

- (i) if he proceeds out of India without complying with the provisions of sub-clause (e);
- (ii) if he becomes an insolvent;
- (iii) if he is convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;
- (iv) if he is absent from three consecutive meetings of the Board without leave of absence from the Chairman;
- (v) if, in the opinion of the Central Government, a member who was appointed to represent dock workers or employers of dock workers and shipping companies ceases to be representative of dock workers or their employers or the shipping companies, as the case may be; or
- (vi) if, in the opinion of the Central Government, it is for any other reason not desirable that he should continue to be a member.

(8) No act done by the Board shall be questioned merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Board.

(9) The quorum and procedure of the Board shall be such as the Board may from time to time determine.

(10) If any question arises for the decision of the Board, it shall be decided by a resolution of the majority of the members of the Board present and voting and in case of equality of votes the Chairman shall have a second or a casting vote.

**5. Administrative Body.**—(1) The Central Government may, by notification in the Official Gazette, appoint the Madras Stevedores' Association or any other authority for the purpose of carrying on the day to day administration of the Scheme and such Association or other authority, when so appointed, shall be known as the Administrative Body.

(2) The Administrative Body shall subject to the supervision and control of the Board and subject to the provisions of clause 9 carry on the day-to-day administration of the Scheme.

(3) The Central Government may for sufficient cause remove any authority appointed under sub-clause (1):

Provided that no such authority shall be removed unless it has been given a reasonable opportunity of being heard.

**6. Special Officer and other servants of the Board.**—The Board may appoint a Special Officer and such other officers and servants and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit:

Provided that no post carrying a salary of rupees five hundred per mensem or more, shall be created and no appointment to such post shall be made by the Board except with the previous approval of the Central Government.

**7. Functions of the Board.**—(1) The Board may take such measures as it may consider desirable for furthering the objectives of the Scheme set out in clause 2, including measures for:

- (a) ensuring the full and proper utilisation of dock labour for the purpose of facilitating the rapid and economic turnround of vessels and the speedy transit of goods through the port;
- (b) regulating the recruitment and entry into and the discharge from the Scheme of dock workers and the allocation of registered dock workers to registered employers;
- (c) determining and keeping under review in consultation with the Administrative Body the number of registered employers and registered dock workers from time to time on the registers or records and the increases or reductions to be made in the numbers in any such registers or records;
- (d) keeping, adjusting and maintaining the employers' register entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (e) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary, of dock workers including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;
- (f) the grouping or regrouping of all registered dock workers into such groups as may be determined by the Board after consultation with the Administrative Body and thereafter reviewing the grouping of any registered dock worker on the application of the Administrative Body or of the registered dock worker;
- (g) making satisfactory provision for the training and welfare of registered dock workers including medical services, in so far as such provision does not exist apart from the Scheme;
- (h) levying and recovering from registered employers contributions in respect of the expenses of the Scheme;
- (i) making satisfactory provision for health and safety measures in places where dock workers are employed in so far as such provision does not exist apart from the Scheme;
- (j) borrowing or raising money and issuing debentures or other securities and, for the purpose of securing any debt or obligation, mortgaging or charging all or any part of the property of the Board.

(2) The income and property of the Board from whatever source derived shall be applied solely towards the objects of the Scheme and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever by way of benefit to the members of the Board; provided that nothing herein shall prevent the payment of

reasonable and proper remuneration and expenses to any officer or servant of the Board or to any member of the Board in return for any services actually rendered to the Board, nor prevent the payment of interest at a reasonable rate on money lent or reasonable and proper rent for premises demised or let by any member to the Board.

(3) The Board shall cause proper accounts to be kept of the costs of operating the Scheme and of all receipts and expenses under the Scheme.

(4) The Board shall submit to the Central Government an annual report on the working of the Scheme and an audited balance sheet and copies of proceedings of the meetings of the Board.

**8. Functions of the Administrative Body.**—Without prejudice to the powers and functions of the Board, the Administrative Body shall be responsible for the administration of the Scheme and shall in particular be responsible for—

- (a) keeping, adjusting and maintaining the employers' register, entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the register the name of any registered employer, either at his own request or in accordance with the provisions of the Scheme;
- (b) the keeping, adjusting and maintaining from time to time such registers or records as may be necessary, of dock workers, including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from any register or record the name of any registered dock worker either at his own request or in accordance with the provisions of the Scheme;
- (c) the employment and control of registered dock workers available for work when they are not otherwise employed in accordance with the Scheme;
- (d) the grouping or re-grouping of registered dock workers in accordance with instructions received from the Board in such groups as may be determined by the Board;
- (e) the allocation of registered dock workers who are available for work to registered employers and for this purpose the Administrative Body shall—
  - (i) be deemed to act as an agent for the employer,
  - (ii) make the fullest possible use of registered dock workers in the Reserve Pool,
  - (iii) keep the record of attendance, at call stands or control points, of registered dock workers,
  - (iv) provide for the maintenance of the records of employment and earnings,
  - (v) subject to the allotment of work by rotation under clause 21(3), follow the principle of seniority, *i.e.*, a worker shall not be allocated unless all registered workers of the same category above him in the register have been allocated;
- (f) (i) the payment as agent of the registered employer to each daily worker of all earnings properly due to the worker from the employer, and the payment to such workers of all monies payable by the Board to those workers in accordance with the provisions of the Scheme;
- (ii) the payment of the employer's contribution to any scheme of insurance constituted under any Act in respect of daily workers and the custody and stamping of their insurance books or cards;
- (iii) the payment of the employer's contribution to any scheme of Provident Fund established for daily workers.
- (g) appointing, subject to budget provision, such officers and servants from time to time as may be necessary:

Provided that the creation of posts carrying a pay of Rs. 250 or over per month and appointment of persons to such posts shall be subject to the prior approval of the Board;

- (h) the keeping of proper accounts of the cost of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet;
- (i) the framing of budget annually and for getting it approved by the Board; and
- (j) such other functions as may from time to time be delegated to it by the Board.

**9. Functions of the Special Officer.**—(1) The Special Officer shall discharge all functions relating to disciplinary action against registered employers and daily workers and shall in particular be responsible for taking action under clauses 35, 36 and 37.

(2) The Board may entrust the Special Officer either of its own motion or at the instance of the Administrative Body such other functions as the Board may deem fit.

**10. Maintenance of Registers, etc.—(1) Employers' Register.—**(a) There shall be a register of employers.

(b) In so far as the application of the Scheme to stevedore labour is concerned, every stevedore, who is licensed by the Madras Port Trust at the time when the Scheme is put into operation and who has worked as a stevedore in the Port of Madras at any time during the preceding two years shall be entitled to be registered under the Scheme; but no such person shall be so entitled unless he applies for registration on or before the date fixed by the Board for this purpose.

(c) Persons other than those registered under sub-clause (b) shall not be registered as stevedores unless the Board considers it expedient and necessary to do so and in no case shall a person be registered until he has been licensed in that behalf by the Port Authority.

(d) A registration fee of Rs. 400 shall be payable to the Board by every stevedore.

(2) **Workers' Registers.—**(1) The workers' registers shall be maintained in the forms devised by the Registration Committee and approved by the Board for the purpose.

(2) The registers of stevedore workers shall be as under, namely:—

(i) *Monthly Register.*—Register of workers who are engaged by each stevedore on contract on monthly wages and who are known as monthly workers.

(ii) *Reserve Pool Register.*—Register of workers other than those on the monthly register. No vacancy occurring in the Reserve Pool Register shall be filled by the Administrative Body until the appropriate Employment Exchange has indicated its inability to supply suitable applicants.

**11. Classification of workers in Registers.—**(i) The Registration Committee shall arrange for the classification of workers by categories in the registers.

(ii) Stevedore labour shall be classified in the following categories:—

(a) Foreman (Serang).

(b) Tindal.

(c) Winchman.

(d) Stevedore worker.

**12. Fixation of number of workers on the register.**—The total number of workers in each category shall be determined by the Board in consultation with the Port Authority and the Administrative Body.

**13. Registration of existing and new workers.—**(1) Any dock worker who, immediately before the coming into force of the Scheme, is in the employment of any employer to whom the Scheme applies, shall be eligible for registration

(2) New workers will be selected for registration by the Registration Committee out of the list submitted by the Employment Exchange. The qualifications for such selection shall be age not exceeding forty years, physical fitness, capacity and/or experience. Preference will be given to Indian citizens.

(3) New workers to be selected for registration will be on probation for a period of three months before being placed on a permanent basis in the registers.

**14. Transfer of workers.—**(1) A vacancy in any category of workers in a register shall ordinarily be filled by promotion of a worker from the next lower category.

(2) A vacancy in any category of monthly workers may be filled *only* by promotion from lower categories of monthly workers or, if no person is suitable for promotion from lower categories of monthly workers, by transfer of a senior worker in the same or a superior category of the Reserve Pool workers.

**Explanation.**—The criteria for promotion or transfer shall ordinarily be the following, *viz.*—

(a) seniority,

(b) merit and fitness for work in the category to which promotion is to be made, and

(c) record of past service.

(3) If the services of a monthly worker are terminated by the employer he shall be entitled to registration in the Reserve Pool in a similar category and his previous service shall be reckoned for all benefits in the Reserve Pool and the employer shall transfer to the Board all benefits that have accrued to the worker in respect of previous service as if such service had not been terminated unless the Board decides that for some special reason the worker is unfit to be re-employed as a dock worker. The employer shall in particular

contribute to the Board such amount as may be appropriate towards the worker's leave that may be due to him on the date of such transfer.

**15. Medical Examination.**—If the Administrative Body deems it necessary, a worker shall undergo free of charge medical examination by a Medical Board to be constituted by the Board.

**16. Facilities for training.**—Adequate facilities for training should be provided for workers by the Board.

**17. Registration Fee.**—A registration fee of rupees two shall be payable to the Board by each worker:

Provided however that the fee for workers registered at the commencement of the Scheme shall be rupee one.

**18. Supply of Cards.**—(1) Every registered worker shall be supplied, free of cost, with the following cards in the forms prescribed by the Board, namely:—

- (i) Identity Card.
- (ii) Attendance and Wage Card.

(2) In case of loss of a card, a fresh card will be issued but the cost thereof, which will be fixed by the Board, shall be payable by the worker concerned.

**19. Surrender of Cards.**—A worker's cards shall be surrendered to the Administrative Body in the following cases and circumstances, namely:—

- (a) when proceeding on leave,
- (b) when retiring from service,
- (c) when dismissed or discharged from service,
- (d) when temporarily suspended,
- (e) on death.

**20. Employment of Workers.**—(1) Workers on the Monthly Register attached to a registered employer shall be entitled to be employed by that employer in preference to any worker in the Reserve Pool Register.

(2) For work which cannot be done by those on the Monthly Register, workers on the Reserve Pool Register shall be employed.

**21. Employment in shifts.**—(1) Workers will be employed in shifts.

(2) Workers will not ordinarily be employed in two consecutive shifts in a day and in no case will workers on the Monthly Register be employed on a second shift so long as workers in a similar category are available on the Reserve Pool Register for work in that shift.

(3) Workers of each category on the Reserve Pool Register shall be allotted work by rotation.

(4) Where work is carried on by a gang, the allotment of workers by rotation shall be by gangs.

**22. Filling up of casual vacancies.**—Casual vacancies in the Monthly and Reserve Pool Gangs will be filled up in the following manner:—

When a tindal is absent, the senior man in the same gang will work as a tindal.

In the vacancies of workers in the gangs, workers from the Reserve Pool will be employed by rotation.

**23. Guaranteed Minimum Wages.**—A worker on the Reserve Pool Register shall be paid wages at least for twelve days in a month at the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs, even though no work is found for him for the minimum number of twelve days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above.

**24. Attendance Wages.**—Subject to the provisions of the Scheme, a worker on the Reserve Pool Register who is available for work but for whom no work is found shall be paid attendance wages at the rate of rupee one per day for the days on which no work was found for him during a calendar month: Provided that no attendance wages will be payable for any day for which full wages, inclusive of dearness allowance, have been paid under clause 23 or otherwise or for which disappointment money is paid under clause 26.

**25. Employment for a shift.**—No worker in the Reserve Pool Register shall be employed for a period of less than a shift and where the work for which a worker has been engaged is completed during the working period of the shift he shall undertake such other work in or at the same or another vessel or berth as may be required by the same employer for the remainder of the period and if no such other work is made available to him, he shall be paid for the entire shift.

**26. Disappointment Money.**—When a worker in the Reserve Pool presents himself for work and for any reason beyond the control of the employer, the work for which he has attended cannot proceed and no alternative work can be found for him and he is relieved within 2 hours of his attending for work, he will be entitled to disappointment money equal to half the wage rate, inclusive of dearness allowance, appropriate to the category to which he belongs. A worker detained for more than 2 hours shall be paid full wages inclusive of dearness allowance.

**27. Appeal Tribunal.**—(1) The Central Government shall appoint one or more Appeal Tribunals for the purposes of hearing appeals under the Scheme.

(2) The Appeal Tribunal shall consist of not more than three persons, who shall not be members of the Board or otherwise connected with the administration of the Scheme.

**28. Registration Committee.**—The Board may appoint one or more Registration Committees, to whom it may delegate such duties as it may think fit in relation to the registration both of dock workers and of employers of dock workers.

**29. Obligations of registered dock workers.**—(1) Every registered dock worker shall be deemed to have accepted the obligations of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall be deemed to be in the employment of the Board.

(3) A registered dock worker who is available for work shall not engage himself for employment under a registered employer unless he is allocated to that employer by the Administrative Body.

(4) A registered dock worker in the Reserve Pool who is available for work shall carry out the directions of the Administrative Body and shall—

(a) report at such call stands or control points and at such times as may be specified by the Administrative Body and shall remain at such call stands or control points for such period, not exceeding one hour from the commencement of the shift, as may be so specified; and

(b) accept any employment in connection with dock work, whether in the category in which he has been registered or in any other category for which he is considered suitable by the Administrative Body.

(5) A registered dock worker who is available for work when allocated by the Administrative Body for employment under a registered employer shall carry out his duties in accordance with the directions of such registered employer and the rules of the port or place where he is working.

**30. Obligations of registered employers.**—(1) Every registered employer shall accept the obligations of the Scheme.

(2) A registered employer shall not employ a worker other than a worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 8(e).

(3) Unless otherwise directed by the Administrative Body a registered employer shall, on the engagement of a registered dock worker who is available for work, obtain his record book or wage card and stamp it in respect of each period of work and return it to him at the conclusion of his engagement.

(4) A registered employer shall in accordance with arrangements made by the Administrative Body, submit all available information of his current and future labour requirements.

(5) A registered employer shall, in accordance with directions given by the Administrative Body, lodge with the latter a return of the gross wages (including overtime and allowances and without deductions of any kind) due from him to each registered dock worker engaged by him in respect of the period covered by the return.

(6) A registered employer shall pay to the Administrative Body in such manner and at such times as the Board may direct the total amount of the gross wages due to daily workers specified in the return made under the preceding paragraph.

(7) A registered employer shall keep such records as the Board may require, and shall produce to the Board or to such persons as may be designated by the Board upon reasonable notice all such records and any other documents of any kind relating to registered dock workers and to the work upon which they have been employed and furnish such information relating thereto, as may be set out in any notice or direction issued by or on behalf of the Board.

**31. Restriction on employment.**—(1) No person other than a registered employer shall engage for employment or employ any worker on dock work nor shall a registered employer

engage for employment or employ a worker on dock work unless that worker is a registered dock worker.

(2) Notwithstanding the foregoing provisions of this clause—

(a) where the Administrative Body is satisfied that—

(i) dock work is emergently required to be done; and

(ii) it is not reasonably practicable to obtain a registered dock worker for that work, the Administrative Body may, subject to any limitations imposed by the Board, allocate to a registered employer a person who is not a registered dock worker. In selecting such workers the local Employment Exchange organisation shall, as far as possible, be consulted.

(b) in the case referred to in sub-paragraph (a) the person so employed as aforesaid by a registered employer shall, for the purposes of clause 30(5), (6) and (7) and clause 33, be treated in respect of that dock work as if he were a daily worker.

**32. Circumstances in which the Scheme ceases to apply.**—(1) The Scheme shall cease to apply to a registered dock worker when his name has been removed from the register or record in accordance with the provisions of the Scheme.

(2) The Scheme shall cease to apply to a registered employer when his name has been removed from the employers' register in accordance with the provisions of the Scheme.

(3) Nothing in this clause shall affect any obligation incurred or right accrued during any time when the person was a registered dock worker or a registered employer.

**33. Wages, allowances and other conditions of service.**—It shall be an implied condition of the contract between a registered dock worker (whether monthly or daily), and a registered employer—

(a) that the rates of wages, allowances, and overtime, hours of work, rest, intervals, holidays and pay in respect thereof and other conditions of service shall be such as may be prescribed by the Board for each category of workers, and

(b) that the fixation of wage periods, time for payment of wages and deductions from wages shall be in accordance with the provisions of the Payment of Wages Act, 1936.

**34. Pay in respect of unemployment or underemployment.**—(1) Subject to the conditions set out in this and the next following clause, when, in any wage period, a registered dock worker in the Reserve Pool is available for work but is not given employment or full employment, he shall be entitled to receive from the Board such amounts as may be admissible to him under clauses 23, 24 and 26.

(2) The conditions subject to which a registered dock worker is entitled to the said payment (if any) from the Board are that—

(a) he attended as directed at the call stands or control points or was excused from attendance; and

(b) his attendance or his excused attendance was recorded.

**35. Disentitlement to payment.**—(1) A registered dock worker available for work who while in the Reserve Pool fails without adequate cause to comply with the provisions of clause 29(4) (a) or (b), or fails to comply with any lawful order given to him by or on behalf of the Board, may be reported in writing to the Special Officer.

(2) A registered dock worker in the Reserve Pool available for work who, while in employment to which he has been allocated by the Administrative Body, fails without any adequate cause to comply with the provisions of clause 29(5) or fails to comply with any lawful orders given to him by his employer, may have his engagement terminated and may be returned to the Reserve Pool, and, whether or not he is so returned may be reported in writing to the Special Officer. When a registered dock worker is so returned to the Reserve Pool, his record book or wage card shall be returned to the Administrative Body.

(3) The Special Officer shall consider any written report received under paragraph (1) or (2) and if, after investigating the matter, he notifies the registered dock worker and the Administrative Body that he is satisfied that the registered dock worker has failed to comply with a lawful order as aforesaid, the registered dock worker shall not be entitled to any payment, or to such part of any payment under clause 34 as the Special Officer thinks fit in respect of the wage period in which such failure occurred or continues.

**36. Disciplinary Procedure.**—(1) The Special Officer, on receipt of information, whether on a complaint or otherwise, that a registered employer has failed to carry out the provisions



of the Scheme, and after investigating the matter, may take any of the following steps as regards that employer, that is to say, he may—

- (a) give the registered employer a warning in writing;
- (b) subject to the approval of the Board and after one month's notice in writing given to the registered employer by the Special Officer inform the Administrative Body that the name of the registered employer shall be removed from the employers' register for such period as determined by the Board.
- (2) A registered dock worker in the Reserve Pool who is available for work and fails to comply with any of the provisions of the Scheme, or commits any act of indiscipline or misconduct may be reported in writing to the Special Officer, who may, after investigating the matter and without prejudice to and in addition to the powers conferred by clause 35, take any of the following steps as regards that worker, that is to say, he may—
  - (a) determine that, for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34;
  - (b) give him a warning in writing;
  - (c) suspend him without pay for a period not exceeding three days;
  - (d) give him fourteen days' notice of termination;
  - (e) dismiss him.
- (3) Before any action is taken under sub-clause (1) or (2), the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him.
- (4) The Administrative Body shall be informed simultaneously about the action taken under sub-clauses (1) and (2).

**37. Termination of employment.**—(1) The employment of a registered dock worker in the Reserve Pool who is available for work shall not be terminated by the Special Officer except—

- (a) by dismissal in the case of misconduct; or
- (b) by giving him fourteen days' notice in writing for any other justifiable cause; or
- (c) so as to enable the worker to be employed in accordance with the provisions of the Scheme.

(2) A registered dock worker in the Reserve Pool who is available for work shall not leave his employment with the Board except by giving fourteen days' notice in writing to the Board or except where he is to be employed in accordance with the provisions of the Scheme.

(3) Where the employment of a registered dock worker by the Board has been terminated under paragraph (1) (a) or (b), or under paragraph (2) by a notice given by him, his name shall forthwith be removed from the register or record by the Administrative Body.

**38. Appeals to Appeal Tribunal.**—(1) If a registered dock worker who is available for work is aggrieved by any order under which he—

- (a) is not entitled to any payment under clause 34 by reason of any of the grounds specified in clause 35 or 36; or
- (b) is suspended from the Scheme; or
- (c) is not properly grouped or regrouped in the register or record; or
- (d) is to be removed from the register or record under paragraphs (1) (a) and (3) of clause 37; or
- (e) is to be given a notice of termination of his employment in accordance with paragraph (1) (b) of clause 37:

he may, within fourteen clear days of the date of the order or, as the case may be, of the date of the receipt of the notice terminating his employment, prefer an appeal in writing to the Appeal Tribunal:

Provided that the Appeal Tribunal may, for reasons to be recorded, admit an appeal preferred after the expiry of fourteen days:

Provided further that no such appeal shall lie where due notice has been given of the removal of the name of the registered dock worker from the register or record in accordance with the instructions of the Board, if the ground of removal is that the registered dock worker falls within a class or description of dock workers whose names are to be removed from the register or record in order to reduce the size thereof:

Provided further, that an appeal shall lie where the registered dock worker alleges that he does not belong to the class or description of dock workers referred to in the preceding proviso.

(2) The Appeal Tribunal shall, as soon as practicable, hear and decide the appeal, and if the appeal is allowed, it shall have power to order that the appellant shall be entitled to receive any payment or any part thereof which may be held to be due to him under clause 34 or that he shall be grouped in accordance with the decision of the Tribunal from such date as it may fix or that his name shall be restored in the register or record as from such date as it may fix. The Appeal Tribunal shall also have the power to vary, modify or alter the penalty imposed but it shall not have power to increase any penalty imposed or to impose a more severe penalty.

(3) An appellant shall not be entitled to be represented by a legal practitioner before the Appeal Tribunal, but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a registered dock worker.

(4) The decision of a majority of an Appeal Tribunal shall be the decision of the Tribunal and shall be final and conclusive. Such decision shall be forthwith given effect to by the Board and the Administrative Body.

**39. Appeal to Board.**—(1) A registered employer who is aggrieved by an order,

(a) giving him a warning in writing under clause 36(1) (a), or

(b) directing a notice to be given to him under clause 36(1) (b) that 'his name will be removed from the employers' register,

may within fourteen clear days of the date of the order or as the case may be, the date of the receipt of the notice of removal from the employers' register, prefer an appeal to the Board, who shall forthwith refer the matter to the Central Government. The Central Government shall make such order on the appeal as it thinks fit.

(2) A stevedore or a worker who has been refused registration under clause 10(1) (b), clause 10(1) (c) or clause 13 as the case may be, or who has been wrongly classified under clause 11 shall have a right of appeal to the Board within fourteen clear days of the date of such refusal and if the original refusal is by the Board the appeal shall lie to the Appeal Tribunal.

(3) A registered dock worker in the Reserve Pool who is aggrieved by an order of the Administrative Body, made under clause 29(1) (b), requiring him to undertake any work, which is not of the same category to which he belongs, may prefer an appeal to the Board within fourteen clear days of the date of such order.

**40. Suspension of notice in case of certain appeals.**—Where an appeal is lodged in accordance with the provisions of clause 38, the Appeal Tribunal may suspend the operation of the order appealed from (except where the order is of dismissal or of disentitlement under clause 35) pending the hearing and disposal of the appeal.

**40-A. Special provisions for action in an emergency.**—(1) If at any time the Chairman of the Board is satisfied that an emergency has arisen which will seriously affect the working of the port, he may, by order in writing and for such period as he may from time to time specify therein, make a declaration to that effect:

Provided that no such declaration shall be made except with the previous approval of the Central Government.

(2) So long as an order under sub-clause (1) is in force, the following provisions shall apply, namely:—

(i) If any allegation is made that a registered employer has failed to carry out the provisions of the Scheme, the Chairman may, after holding a summary inquiry into the allegation, take any of the following steps as regards that employer, that is to say, he may—

(a) give the registered employer a warning in writing, or

(b) direct that the name of the registered employer shall be removed forthwith from the employers' register either permanently or for such period as he may determine.

(ii) If any allegation of indiscipline, "go-slow" or mis-conduct is made against a registered dock worker, the Chairman may suspend him forthwith pending inquiry, hold a summary inquiry into the allegation and take any one or more of the following steps against that worker, that is to say, he may—

(a) determine that for such period as he thinks proper, that worker shall not be entitled to any payment under clause 34,

(b) give him a warning in writing,

(c) suspend him without pay for a period not exceeding three months,

(d) give him fourteen days' notice of termination, or

(e) dismiss him.

(3) The provisions of the Scheme relating to disciplinary action against registered employers and registered dock workers shall not apply to any order passed by the Chairman under paragraph (i) or paragraph (ii) of sub-clause (2).

(4) No appeal shall lie from any order passed by the Chairman under paragraph (i) or paragraph (ii) of sub-clause (2).

(5) Notwithstanding anything contained in the Scheme, so long as an order under sub-clause (1) is in force, the Chairman may authorise the employment of unregistered workers directly by registered employers and payment to such unregistered workers directly.

**41. Cost of operating the Scheme.**—(1) The cost of operating the Scheme shall be defrayed by payments made by registered employers to the Board in the manner following:—

Every registered employer shall pay to the Board—

(a) such amount, whether by way of percentage on the gross wages payable by him under clause 30 (6) or as otherwise agreed, together with and at the same time as the payment of those wages; and

(b) at the same time as the payment under sub-paragraph (a), such amount whether by way of percentage on the gross wages shown as due to monthly workers in the return made under clause 30 (5) or as otherwise agreed; as the Board may in either case from time to time notify by public notice.

(2) In determining what payments are to be made by registered employers under paragraph (1) of this clause, the Board may fix different percentages for different categories of work or workers, provided that the percentages shall be so fixed that the like percentages will apply to all dock employers who are in like circumstances.

(3) The Board shall not sanction any levy exceeding fifty per cent. of gross wages without the prior approval of the Central Government.

(4) A registered employer shall on demand make a payment to the Board by way of deposit, or provide such other security for the purposes of the payment of the gross wages set out in clause 30(6) and the percentage payments set out in paragraphs (1) (a) and (b) of this clause, as the Board may consider necessary.

(5) The Administrative Body shall furnish from time to time to the Board all such statistical and other information as may reasonably be required relating to the operation and finance of the Scheme.

**42. Penalties.**—A contravention of clause 31 shall be punishable with imprisonment for a period not exceeding three months in respect of a first contravention or six months in respect of a subsequent contravention or with fine not exceeding five hundred rupees in respect of a first contravention or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine as aforesaid.

#### THE SCHEDULE—[See clause 2(2)]

*Classes or descriptions of dock work and dock workers to which the Scheme applies.*

1. Stevedoring work other than coal work.

2. The following categories of stevedore workers:—

(I) Foreman (Serang);

(II) Tindal;

(III) Winchman;

(IV) Stevedore worker.

### Complaints under Dock Workers (Regulation of Employment) Act, 1948<sup>1</sup>

In exercise of the powers conferred by sub-section (4) of section 6 of the Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948), the Central Government is pleased to prescribe that a person aggrieved by a contravention of any provision of a scheme may make a complaint, in the form prescribed in the Schedule hereto annexed, to an Inspector appointed under the said Act, and the Inspector, on receipt of such a complaint, shall take such action in the matter as he deems necessary and shall, wherever possible, advise the complainant of the action taken in the matter.

<sup>1</sup> Published under the Ministry of Labour Notification No. Fac. 73(5) dated the 28th February, 1950, in Gazette of India, 1950, Part I—Sec. 1, page 321.

**The Schedule—Form of Complaint**

- (1) Name and address of the complainant.
- (2) Age.
- (3) Ticket No., if any.
- (4) Particulars of the complaint.
- (5) Date and signature.

**INDIAN PORTS (AMENDMENT) ACT, 1922 (XV OF 1922)****Statement of Objects and Reasons<sup>1</sup>**

The General Conference of the International Labour Organisation of the League of Nations convened at Washington on the 29th October, 1919, adopted a Draft Convention concerning the minimum age for admission of children to industrial employment. Article 6(c) of the Convention prohibits, *inter alia*, the employment of children under twelve years of age in handling of goods in docks, quays and wharves, but excluding transport by hand. On the recommendation of the Legislative Assembly and the Council of States, the Governor-General in Council has ratified the whole of the Convention and the Government of India are now under an obligation to make the provisions of the Article 6(c) effective. The object of the present Bill is to fulfil this obligation so far as the employment of children in the handling of goods in docks, quays and wharves is concerned.

**INDIAN PORTS (AMENDMENT) ACT, 1931 (XI OF 1931)****Statement of Objects and Reasons<sup>2</sup>**

It is doubtful whether section 6 of the Indian Ports Act, 1908, as at present worded, empowers the Local Government to frame rules prohibiting the employment of children in the handling of goods on the waterside of vessels in ports, although it seems clear that the intention of the Legislature was to prohibit child labour throughout the limits of ports. The object of this Bill is to resolve this doubt by providing against the employment of children under the age of twelve years in the handling of goods anywhere within the ports to which the Act applies.

**INDIAN PORTS ACT, 1908 (XV OF 1908) (EXTRACTS)****Arrangement of Sections****CHAPTER I—PRELIMINARY**

1. Title and extent.
3. Definitions.

**CHAPTER II—POWER OF THE GOVERNMENT**

6. Power to make port-rules.

**CHAPTER V—PORT-DUES, FEES AND OTHER CHARGES**

49. Power to impose hospital port-dues.
50. Application and account of hospital port-dues.

**CHAPTER VIII—SUPPLEMENTAL PROVISIONS**

65. Grant of sites for sailor's institutes.
68. Publications of orders of Government.

<sup>1</sup> Gazette of India, 1922, Part V, p. 176.

<sup>2</sup> Gazette of India, 1931, Part V, p. 20.

**68. Publication of orders of Government.**—Every declaration, order and rule of a <sup>10</sup>[Government] made in pursuance of this Act shall be published in the <sup>10</sup>[Official Gazette], and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

## MARKING OF HEAVY PACKAGES ACT, 1951 (XXXIX OF 1951)

### Statement of Objects and Reasons<sup>1</sup>

The Convention concerning the Marking of the Weight on Heavy Packages transported by vessels adopted by the International Labour Conference in 1929 has been ratified by India. The Convention requires that any package or object of one thousand kilogrammes (one metric ton) or more gross weight consigned within the territory of any Member country for transport by sea or inland water-way should have its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel. This will prevent heavy unmarked packages from being lifted by mechanical means which are intended for smaller loads. The purpose of the Bill is to give effect to the Convention in India.

## MARKING OF HEAVY PACKAGES ACT, 1951 (XXXIX OF 1951)

### Arrangement of Sections

1. Short title, extent and commencement
2. Definitions.
3. Obligation to mark weight on heavy packages.
4. Penalty.
5. Power to make rules.

## MARKING OF HEAVY PACKAGES ACT, 1951 (XXXIX OF 1951)<sup>2</sup>

*An Act to give effect to the International Convention drawn up in Geneva on the 30th day of May, 1929, for the marking of weight on heavy packages transported by sea or inland water-ways.*

[25th June, 1951]

Be it enacted by Parliament as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Marking of Heavy Packages Act, 1951.

(2) It extends to the whole of India.

(3) It shall come into force on such date<sup>3</sup> as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “heavy package” means a package or other object weighing not less than one metric ton, which is equal to one thousand kilogrammes or 2204·6 standard pounds or 26·8 standard maunds;

(b) “inland water-way” means any canal, river, lake or other navigable water in India.

<sup>1</sup> Gazette of India, 1950, Part II—Section 2, pages 233-34.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1950, Part II—Sec. 2, pp. 233-34; see also top of this page.

<sup>3</sup> 1st November, 1951, vide Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 1670 dated the 29th October, 1951.

**3. Obligation to mark weight on heavy packages.**—Every person consigning a heavy package for transport by sea or inland water-way from any place in India shall have marked thereon plainly, durably and conspicuously the gross weight of the package:

Provided that in cases or circumstances specified by rules made under this Act where it is difficult to determine the correct weight, only the approximate weight may be so marked.

**4. Penalty.**—(1) If any person contravenes the provisions of section 3, he shall be punishable with fine which may extend to five hundred rupees.

(2) If the person contravening the said provisions is a company or other body corporate, every managing director, manager or secretary thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

**5. Power to make rules.**—The Central Government may, by notification in the Official Gazette, make rules—

(a) specifying the conditions as to the manner of marking of all heavy packages, the manner of packing and the type of covering to be used.

(b) specifying the cases or circumstances in which the approximate weight of heavy packages instead of their correct weight may be marked.

## MARKING OF HEAVY PACKAGES RULES, 1951

### Arrangement of Paragraphs

1. Short title and commencement.
2. Manner of marking of Heavy Packages
3. Gross weight to be marked in metric tons, kilogrammes, maunds or pounds.
4. Place of marking.
5. Size of letters or figures.
6. Manner of packing.
7. Marking of approximate weight in certain circumstances.

## MARKING OF HEAVY PACKAGES RULES, 1951<sup>1</sup>

In exercise of the power conferred by section 5 of the Marking of Heavy Packages Act, 1951 (XXXIX of 1951), the Central Government hereby makes the following Rules, namely:—

**1. Short title and commencement.**—(1) These Rules may be called the Marking of Heavy Packages Rules, 1951.

(2) They shall come into force on the 1st day of November, 1951.

**2. Manner of marking of Heavy Packages.**—(1) The gross weight on a heavy package shall be marked thereon in the English and the regional language with a kind of paint which is not easily effaceable.

(2) Where a heavy package is of a light colour, black paint shall be used and where the package is of a dark colour, white or yellow paint shall be used.

**3. Gross weight to be marked in metric tons, kilogrammes, maunds or pounds.**—Subject to the provisions of Rule 7, the gross weight of a heavy package shall be marked thereon in metric tons, kilogrammes, standard pounds or standard maunds.

**4. Place of marking.**—The gross weight shall be marked on two sides of a heavy package so that in whatever position the package is placed, the marking is easily visible.

<sup>1</sup> These Rules were published under the Ministry of Transport (Merchant Shipping) Notification No. S.R.O. 1670 dated the 29th October, 1951 in the Gazette of India Extraordinary, Part II—Section 3 dated the 29th October, 1951.

**5. Size of letters or figures.**—Every letter or figures used to mark the gross weight of a heavy package shall be at least three inches in length and one quarter of an inch in breadth.

**6. Manner of packing.**—(1) The goods in a heavy package shall be securely packed in a strong covering in such manner that there is no movement of the goods inside the package or any danger of the disintegration of the goods or the covering.

(2) The covering shall be of such material and nature as can stand the strain of the package being handled during the course of loading or unloading so that the risk of any injury to persons who handle the package is minimised.

**7. Marking of approximate weight in certain circumstances.**—Where at the place from where a heavy package is consigned there are no means available for determining the correct weight of the package, the anticipated minimum and maximum weight of the package in metric tons, kilogrammes, standard pounds or standard maunds shall be marked thereon in the manner herein before specified.

Provided that such anticipated maximum weight shall be so assessed that it does not fall below the actual weight of the package.

*Illustration*—Where the anticipated minimum weight of a package is one ton and the anticipated maximum weight two tons, the package shall be marked thus:—

“Between one and two metric tons”.

## ROAD TRANSPORT LABOUR LEGISLATION

### Motor Transport Labour

Motor transport workers form majority of road transport labour in India. The principle of statutory regulation of conditions of work of motor transport workers came under the consideration of the Royal Commission on Labour in India but the Commission came to the conclusion that the regulation of hours of work of motor bus workers in the cities as well as in the countries would be very difficult. After consultation with the Provincial Governments and Transport Advisory Council, the Government of India introduced a Bill on the 18th March, 1938 to consolidate and amend the law relating to the motor vehicles.

### Motor Vehicles Act, 1939 (IV of 1939)

The Motor Vehicles Act, 1939 (IV of 1939) regulates the minimum age of employment, hours of work and rest periods of motor drivers. The Act prohibits the employment of any person under 18 years of age as a driver of motor vehicle and any person under 20 years as a driver of a transport vehicle, except in the employment of Central Government in which case the minimum age is 18 years. The Act limits the hours of work of drivers in the case of transport vehicles to 9 in a day and 54 in a week and provides for a rest period of at least half an hour after 5 hours of continuous work.

### Framing of Rules by State Governments

The State Government is empowered by rules made under the Act to grant such exemption as it thinks fit to meet cases of emergency or of delays by reason of circumstances which could not be foreseen. The State Government or the Regional Transport Authority is also authorised under the rules to require the employer to fix beforehand the hours of work of drivers and to record the hours so fixed. The State Government may prescribe the circumstances under which and the period during which the driver although not engaged in work but required to remain in or near the vehicles may be deemed to be an interval of rest.

### Payment of Wages Act extended to Motor Transport Workers

The provisions of the Payment of Wages Act, 1936 have been applied to motor omnibus services in the States of Assam, Bihar, West Bengal, Madras, Coorg,

Delhi and Punjab, to Government transport concerns and private transport companies in Punjab, motor goods transport services in Delhi and to motor vehicles plying under stage carriage permits and public carriers permits in Orissa.

### Central Government's Five-Year Labour Programme

In the Five Year Labour Programme drawn by the then Labour Department of the Government of India in September, 1946, there was a proposal to enact Central legislation for regulating the conditions of work in road transport and other services, viz., tramways and motor vehicles plying for passenger or goods traffic. No legislation has yet been undertaken by the Central Government to regulate the working conditions of road transport workers.

### Planning Commission's First Five Year Plan & Draft Second Five Year Plan

The Planning Commission in the First Five Year Plan<sup>1</sup> recommended the enactment of Central legislation for regulating the conditions of work in motor transport services. The Central Government has not yet undertaken the proposed legislation. The Draft Outline of Second Five Year Plan<sup>2</sup> published in February, 1956 contains a recommendation for enacting Central legislation to regulate conditions of work in transport services.

### Regulation of Working Conditions of Motor Transport Workers

Two non-official Bills were introduced in the Lok Sabha in September, 1955 and one unofficial Bill in the Rajya Sabha in March, 1956 for regulating the working conditions of motor transport workers.

Motor Transport Labour Bill, 1955 (Bill No. 41 of 1955)<sup>3</sup> was introduced by Sri A. K. Gopalan on the 2nd September, 1955 and the Motor Vehicles (Amend-

<sup>1</sup> The First Five-Year Plan, Planning Commission, December, 1952, Chapter XXXIV—Labour, page 586.

<sup>2</sup> Second Five-Year Plan, Planning Commission—A Draft Outline, February, 1956, Chapter XII—Labour Policy and Programme, page 173.

<sup>3</sup> Statement of Objects and Reasons.—In spite of the fact that Road Transport occupies a very important place in the economy and life of our country, there is at present no comprehensive legislation regarding the conditions of labour in this industry.

The present Bill drafted as an All-India measure seeks to regulate the conditions of motor transport workers who form the majority of road transport labour.

#### *Memorandum Regarding Delegated Legislation*

*Clause 5.*—Relates to rest houses. When a bus has to halt for the night or for long period of hours, there should be rest houses for drivers and conductors. At present in most places no such provisions are made and the transport workers are asked to shift for themselves resulting in ruination of their health due to stay under insanitary conditions. Often the required rest is not obtained.

Apart from the point of view of workers' own health, the safety of the passengers also requires rest for the motor transport workers which can be had only if proper rest houses are maintained.

*Clause 6.*—Relates to recreation facilities. The period of rest which a motor transport worker gets during his journey and the halt before his return can be usefully and beneficially spent if such facilities are provided for.

*Clause 7.*—Deals with uniform, foot-wear and other like amenities. The rules requiring the employers to provide these amenities may be framed after due consultation with parties concerned, as was done in the case of plantation industry.

*Clause 9.*—Relates to weekly holidays, which can be brought into force only when rules are framed after proper consultation with all the parties concerned so that the workers get the benefit of one day's rest and regular transport services are not affected thereby.

*Clause 19.*—Wants compulsory insurance of motor transport workers. There are greater chances of accidents in motor transport. It is necessary, therefore, that all transport work-



ment) Bill, 1955 (Bill No. 44 of 1955)<sup>4</sup> was introduced on the 16th September, 1955 by Sri T. B. Vithal Rao. The provisions of these two Bills relate to hours of work and limitations of employment, weekly holidays, compensatory days of rest, spread over, night work and wages for night work, leave with wages, accumulation of leave, sickness leave and sickness benefits, provident fund, gratuity, medical facilities, canteens, rest house, reading room and recreational facilities and insurance of motor transport workers by employers.

Another non-official Bill named the Motor Vehicles (Amendment) Bill, 1956 (XI of 1956)<sup>5</sup> was introduced in the Rajya Sabha on the 9th March, 1956 by Sri S. N. Majumdar, for substituting Section 65 of the Motor Vehicles Act, 1939 on the similar lines as the above two non-official Bills introduced in the Lok Sabha.

### International Standards for Road Transport Workers

The International Labour Organisation has adopted Convention No. 67 Hours of Work and Rest Periods (Road Transport) in 1939 prescribing hours of work of professional drivers of transport vehicles at 8 a day and 48 a week including the time spent for work done during the running time of vehicles, time spent in subsidiary work, periods of mere attendance and breaks for rest and interruptions of work.

The International Labour Organisation has also adopted three Recommendations, No. 64 Night Work (Road Transport), 65 Methods of Regulating Hours (Road Transport) and 66 Rest Periods (Private Chauffeurs) in 1939. The Recommendations authorise the competent authorities in each country to determine the classes of transport for which night work will be authorised and to suggest methods for regulating the working hours of transport drivers and to grant minimum daily and weekly periods of rest to drivers of private vehicles.

### Central Legislation for Transport Workers

According to 1951 census road transport provided employment to about 900,000 persons. With the general expansion in economic and trade activities during the First Five Year Plan, this number must have increased considerably. A large-scale expansion of production in automobile and other industries and the proposed increase in the mileage of national and State highways and roads envisaged under the Second Five Year Plan would lead to a further increase in the number of road transport workers. In view of the above, the question of improvement of the conditions of work of motor transport workers, requires urgent consideration.

ers are insured. The rules for the same relating to premium, periods of contribution, etc., may be framed after full consultation with all parties concerned.

Parties concerned means, representatives of the Central Government, State Governments, private employers and workers' representatives including—representatives of All-India Federation and unions, if any.

These proposals, though of a normal character, are found necessary because only after full consultations with parties concerned, can they be effectively implemented. The delegation of powers to the Central Government is made because of necessity for uniformity in the rules relating to the above provisions. (Gazette of India Extraordinary, 1955, Part II—Section 2, page 341.)

<sup>4</sup> Statement of Objects and Reasons.—In spite of the fact that Road Transport occupies a very important place in the economy and life of our country, there is no comprehensive legislation at present regarding the conditions of labour in this industry.

The Amendments suggested in the Bill, if incorporated in the Motor Vehicles Act, 1939, will regulate the conditions of motor transport workers who form the majority of road transport labour in India. (Gazette of India Extraordinary, 1955, Part II—Section 2, p. 363.)

<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, 1956, Part II—Section 2, page 86.

The question of enacting a Central legislation for transport workers was discussed in the 15th Session of the Standing Labour Committee held at Delhi on the 4th and 5th April, 1956 with the Union Minister of Labour in the Chair. In a Memorandum,\* the Central Ministry of Labour states that while it may not be practicable at this stage to introduce any general legislation to cover all road transport workers, it would seem appropriate to make a beginning with legislation for workers employed in public motor transport. As certain aspects of their conditions of employment are already covered under the existing laws, the proposed legislation is unlikely to impose any undue burden on the employers.

There was a general agreement that there should be a separate Central legislation for motor transport workers covering their conditions of work and welfare on the analogy of similar enactments for workers in factories, mines and plantations. It was decided that the draft legislation prepared by the Central Government would be considered by an *ad hoc* Committee.

### Road Transport Corporations Act, 1950 (LXIV of 1950)

The Central Government enacted the above legislation to enable the State Governments to set up Transport Corporations with the object of providing efficient, adequate, economical and properly co-ordinated system of road transport services.

Under the Act, the State Government is authorised to constitute Road Transport Corporation and the Corporation has to provide for its employees, conditions of service including fair wages, establishment of provident fund, living accommodation, places for rest and recreation and other amenities. The Corporation can also take steps for the purpose of advancing the skill of the persons employed therein. The Corporation has power to make regulations for providing the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than Chief Executive Officer or General Manager and the Chief Accounts Officer.

## MOTOR VEHICLES ACT, 1939 (IV OF 1939) (EXTRACTS)

### Arrangement of Sections

#### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II—LICENSING OF DRIVERS OF MOTOR VEHICLES

3. Necessity for driving licence.
4. Age limit in connection with driving of motor vehicles.
5. Responsibility of owners of motor vehicles for contraventions of Sections 3 & 4.

#### CHAPTER IV—CONTROL OF TRANSPORT VEHICLES

65. Restriction of hours of work of drivers.

#### CHAPTER IX—OFFENCES, PENALTIES AND PROCEDURE

112. General provision for punishment of offences.

\* Hindusthan Standard, Calcutta Edition, 2nd April, 1956.

# MOTOR VEHICLES ACT, 1939 (IV OF 1939) (EXTRACTS)<sup>1</sup>

*An Act to consolidate and amend the law relating to motor vehicles*

[16th February, 1939]

Whereas it is expedient to consolidate and amend the law relating to motor vehicles \* \* \* \* it is hereby enacted as follows:—

## CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Motor Vehicles Act, 1939.

(2) It extends to <sup>3</sup>[the whole of India <sup>4</sup>[except the State of Jammu and Kashmir.]]

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

\* \* \* \* \*

(13) “light transport vehicle” means any public service vehicle other than a motor cab, or any goods vehicle other than a heavy transport vehicle or a delivery van;

(15) “motor cab” means any motor vehicle constructed, adapted or used to carry not more than six passengers excluding the driver, for hire or reward;

(16) “motor car” means any motor vehicle other than a transport vehicle, locomotive, road-roller, tractor, motor cycle or invalid carriage;

(17) “motor cycle” means a motor vehicle, other than an invalid carriage, with less than four wheels the unladen weight of which, inclusive of any side-car attached to the vehicle, does not exceed 900 pounds avoirdupois;

(18) “motor vehicle” means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or used solely upon the premises of the owner;

(19) “owner” means, where the person in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to motor vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement;

\* \* \* \* \*

(22) “private carrier” means an owner of a transport vehicle other than a public carrier who uses that vehicle solely for the carriage of goods which are his property or the carriage of which is necessary for the purposes of his business not being a business of providing transport, or who uses the vehicle for any of the purposes specified in sub-section (2) of section 42;

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, p. 114; for Report of the Select Committee, see *ibid.*, p. 187.

The Act has been amended in its application to Madras by Madras Act 20 of 1948 and 44 of 1949; in Madhya Pradesh by C. P. & Berar Act 3 of 1948; in Uttar Pradesh by U. P. Acts 11 of 1948 and 10 of 1951; in Punjab by E. P. Act 28 of 1948; in Bihar by Bihar Act 27 of 1950 and in West Bengal by West Bengal Act 19 of 1951.

<sup>2</sup> The words “in the provinces of India” rep. by the A. O. 1950.

<sup>3</sup> Subs., *ibid.*

<sup>4</sup> Subs. by Act 3 of 1951, s. 3 and Sch.

- (23) "public carrier" means an owner of a transport vehicle who transports or undertakes to transport goods, or any class of goods, for another person at any time and in any public place for hire or reward, whether in pursuance of the terms of a contract or agreement or otherwise and includes any person, body, association or company engaged in the business of carrying the goods of persons associated with that person, body, association or company for the purpose of having their goods transported;
- (24) "public place" means a road, street, way or other place whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage;
- (25) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a motor cab, contract carriage, and stage carriage;
- (33) "transport vehicle" means a public service vehicle, a goods vehicle, a locomotive or a tractor other than a locomotive or tractor used solely for agricultural purposes.

#### CHAPTER II—LICENSING OF DRIVERS OF MOTOR VEHICLES

**3. Necessity for driving licence.**—(1) No person shall drive a motor vehicle in any public place unless he holds an effective licence issued to himself authorising him to drive the vehicle; and no person shall so drive a motor vehicle as a paid employee or shall so drive a public service vehicle unless his licence specifically entitles him so to do.

(2) A <sup>5</sup>[State] Government may prescribe the conditions subject to which sub-section (1) shall not apply to a person receiving instruction in driving a motor vehicle.

**4. Age limit in connection with driving of motor vehicles.**—(1) No person under the age of eighteen years shall drive a motor vehicle in any public place.

(2) Subject to the provisions of section 14,<sup>6</sup> no person under the age of twenty years shall drive a transport vehicle in any public place.

**5. Responsibility of owners of motor vehicles for contraventions of section 3 & 4.**—No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.

#### CHAPTER IV—CONTROL OF TRANSPORT VEHICLES

**65.<sup>7</sup> Restriction of hours of work of drivers.**—(1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work—

- (a) for more than five hours before he has had an interval of rest of at least half an hour; or

<sup>5</sup> Subs. by A.O. 1950.

<sup>6</sup> Under Section 14, a person completing 18 years is permitted to drive motor vehicles which are the property of or for the time being under the exclusive control of the Central Government and the Authority can grant him a licence for the class or classes of the vehicle he is entitled to drive and the period for which he is so entitled.

<sup>7</sup> Under this Section, the Government of West Bengal, in Rules 87, 88 and 89 of the Bengal Motor Vehicles Rules, 1940, has made provisions for exemptions from hours of work, fixing hours of work in advance and definition of periods of rest.

- (b) for more than nine hours in one day; or
- (c) for more than fifty-four hours in the week.

(2) The \*[State] Government may by rule made under section 68<sup>a</sup> grant such exemption from the provisions of sub-section (1) as it thinks fit to meet cases of emergency or of delays by reason of circumstances which could not be foreseen.

(3) The \*[State] Government <sup>10</sup>[or, if authorised in this behalf by the \*[State] Government by rules made under section 68<sup>a</sup>, the \*[State] or a Regional Transport Authority] may require persons employing any persons whose work is subject to any of the provisions of sub-section (1) to fix beforehand the hours of work of such persons so as to conform with those provisions, and may provide for the recording of the hours so fixed.

(4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons in compliance with any rule made under sub-section (3).

(5) The \*[State] Government may prescribe the circumstances under which any period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of sub-section (1).

#### CHAPTER IX—OFFENCES, PENALTIES AND PROCEDURE

**112. General provision for punishment of offences.**—Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to twenty rupees, or, if having been previously convicted of any offence under this Act he is again convicted of an offence under this Act, with fine which may extend to one hundred rupees.

### ROAD TRANSPORT CORPORATIONS ACT, 1950 (LXIV OF 1950)

#### Statement of Objects and Reasons<sup>1</sup>

The Road Transport Corporations Act, 1948 (XXXII of 1948) was enacted with a view to enable the Provincial Governments, who may so desire, to establish Road Transport Corporations. This Act has been found defective because the provisions of sections 3(2), 4 and 5 of the Act, in so far as they require certain provisions to be made by a Provincial law, are *ultra vires* of the Government of India Act, 1935, as adapted. Under the latter Act, the power to legislate in respect of trade and commerce is given to the Provincial Legislatures and the power to legislate for the incorporation of trading corporations is given to the Central Legislature. The creation of statutory transport corporations has been held as amounting to incorporation of trading corporations, and, as such, *ultra vires* of the Provincial Legislature. In order to remove the above-mentioned legal flaw, it is proposed to replace the existing Act, by a comprehensive Act, enabling such of the Provincial Governments, who may so desire, to set up transport corporations, with the object of providing efficient, adequate, economical and properly co-ordinated system of road transport services.

<sup>a</sup> Subs. by the A. O. 1950.

<sup>9</sup> Section 68 gives power to the State Governments to make rules for the purpose of carrying into effect the provisions of Chapter IV—Control of Transport Vehicles.

<sup>10</sup> Ins. by Act 20 of 1942, s. 15.

<sup>1</sup> Gazette of India, Part V, 1949, page 559.

# ROAD TRANSPORT CORPORATIONS ACT, 1950 (LXIV OF 1950)

## Arrangement of Sections

### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

### CHAPTER II—ROAD TRANSPORT CORPORATIONS

3. Establishment of Road Transport Corporations in the States.
4. Incorporation.
5. Constitution of Road Transport Corporation.
12. Power to appoint committees and delegate functions.
14. Officers and servants of the Corporation.
15. The Chief Executive Officer or General Manager and the Chief Accounts Officer
16. General disqualification of all officers and servants.

### CHAPTER III—POWERS AND DUTIES OF CORPORATION

18. General duty of Corporation.
19. Powers of Corporation.

### CHAPTER IV—FINANCE, ACCOUNTS AND AUDIT

22. General principle of Corporation's finance.
27. Fund of the Corporation.
31. Power of the Corporation to spend.

### CHAPTER V—MISCELLANEOUS

34. Directions by the State Government.
35. Returns and reports.
43. Members, officers and servants of a Corporation to be public servants.
44. Power to make rules.
45. Power to make regulations.

## ROAD TRANSPORT CORPORATIONS ACT, 1950 (LXIV OF 1950)<sup>1</sup>

*An Act to provide for the incorporation and regulation of Road Transport Corporations.*

[4th December, 1950]

Be it enacted by Parliament as follows:—

### CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Road Transport Corporations Act, 1950.

(2) It extends to the whole of India except the States of Delhi and Jammu and Kashmir.

(3) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf for such State and different dates may be appointed for different States.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “ancillary service” means any subsidiary service which provides amenities or facilities to persons making use of any road transport service of a Corporation;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1949, Part V, P. 559; see also p. 758 ante; for the Report of the Select Committee, see Gazette of India, 1950, Part II—Section 2, pages 345—357.

- (b) "Corporation" means a Road Transport Corporation established under section 3;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "road transport service" means a service carrying passengers or goods or both by road in vehicles for hire or reward;
- (f) "vehicle" means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport, and includes a tramcar, a trolley-vehicle and a trailer.

## CHAPTER II—ROAD TRANSPORT CORPORATIONS

**3. Establishment of Road Transport Corporations in the States.**—The State Government, having regard to—

- (a) the advantages offered to the public, trade and industry by the development of road transport;
- (b) the desirability of co-ordinating any form of road transport with any other form of transport;
- (c) the desirability of extending and improving the facilities for road transport in any area and of providing an efficient and economical system of road transport service therein;

may, by notification in the Official Gazette, establish a Road Transport Corporation for the whole or any part of the State under such name as may be specified in the notification.

**4. Incorporation.**—Every Corporation shall be a body corporate by the name notified under section 3 having perpetual succession and a common seal, and shall by the said name sue and be sued.

**5. Constitution of Road Transport Corporation.**—(1) Subject to rules made under this Act, a Corporation shall consist of a Chairman and such number of other members as the State Government may think fit to appoint.

(2) The State Government may, if it so thinks fit, appoint one of the other members as the Vice-Chairman of the Corporation.

\* \* \* \* \*

**12. Power to appoint committees and delegate functions.**—A Corporation may, from time to time, by resolution passed at a meeting—

- (a) appoint committees of its members for performing such functions as may be specified in the resolution;
- (b) delegate to any such committee or to the Chairman or Vice-Chairman, subject to such conditions and limitations, if any, as may be specified in the resolution, such of its powers and duties as it may think fit;
- (c) authorise the Chief Executive Officer or General Manager, subject to such conditions and limitations, if any, as may be specified in the resolution to exercise such powers and perform such duties as it may deem necessary for the efficient day to day administration of its business.

\* \* \* \* \*

**14. Officers and servants of the Corporation.**—(1) Every Corporation shall have a Chief Executive Officer or General Manager and a Chief Accounts Officer appointed by the State Government.

(2) A Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

(3) The conditions of appointment and service and the scales of pay of the officers and servants of a Corporation shall—

- (a) as respects the Chief Executive Officer or General Manager and the Chief Accounts Officer be such as may be prescribed, and
- (b) as respects the other officers and servants be such as may, subject to the provisions of section 34, be determined by regulations made under this Act.

**15. The Chief Executive Officer or General Manager and the Chief Accounts Officer.**—(1) The Chief Executive Officer or General Manager shall be the executive head of the Corporation and all other officers and servants of the Corporation shall be subordinate to him.

(2) The Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the fund of the Corporation prior to the consideration of such proposal by the Corporation.

**16. General disqualification of all officers and servants.**—No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract, by or on behalf of a Corporation, or in any other road transport undertaking shall become or remain an officer or servant of the Corporation.

#### CHAPTER III—POWERS AND DUTIES OF CORPORATION

**18. General duty of Corporation.**—It shall be the general duty of a Corporation so to exercise its powers as progressively to provide or secure or promote the provision of, an efficient, adequate, economical and properly co-ordinated system of road transport services in the State or part of the State for which it is established and in any extended area:

Provided that nothing in this section shall be construed as imposing on a Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which it would not otherwise be subject.

**19. Powers of Corporation.**—(1) Subject to the provisions of this Act, a Corporation shall have power—

- (a) to operate road transport services in the State and in any extended area;
- (b) to provide for any ancillary service;
- (c) to provide for its employees suitable conditions of service including fair wages, establishment of provident fund, living accommodation, places for rest and recreation and other amenities.

(2) Subject to the provisions of this Act, the powers conferred by sub-section (1) shall include power—

- (i) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the manner in which that equipment is operated, including the provision by the Corporation, and the assistance by the Corporation to others for the provision of facilities for training, education and research;

- (m) with the prior approval of the State Government to do all other things to facilitate the proper carrying on of the business of the Corporation.

#### CHAPTER IV—FINANCE, ACCOUNTS AND AUDIT

**22. General principle of Corporation's finance.**—It shall be the general principle of a Corporation that in carrying on its undertaking it shall act on business principles.



**27. Fund of the Corporation.**—(1) Every Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as otherwise directed by the State Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India, or invested in such securities as may be approved by the State Government.

**31. Power of the Corporation to spend.**—A Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act and such sums shall be treated as expenditure payable out of the fund of the Corporation.

#### CHAPTER V—MISCELLANEOUS

**34. Directions by the State Government.**—(1) The State Government may, after consultation with a Corporation established by such Government, give to the Corporation general instructions to be followed by the Corporation, and such instructions may include directions relating to the recruitment, conditions of service and training of its employees, wages to be paid to the employees, reserves to be maintained by it and disposal of its profits or stocks.

(2) In the exercise of its powers and performance of its duties under this Act, the Corporation shall not depart from any general instructions issued under sub-section (1) except with the previous permission of the State Government.

**35. Returns and reports.**—(1) Every Corporation shall furnish to the State Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed scheme as the State Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), a Corporation shall, as soon as possible after the end of each financial year, submit to the Central and the State Governments a report on the exercise and performance by it of its powers and duties under this Act during that year and on its policy and programme.

\* \* \* \* \*

**43. Members, officers and servants of a Corporation to be public servants.**—All members of a Corporation, and all officers and servants of a Corporation, whether appointed by the State Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or of any other law, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

**44. Power to make rules.**—(1) The State Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

\* \* \* \* \*

(e) the conditions of appointment and service and the scales of pay of the Chief Executive Officer or General Manager and the Chief Accounts Officer of the Corporation;

(h) the manner in which the net profits of the Corporation shall be utilised;

(l) the form in which the returns, statistics or reports shall be submitted under section 35;

(n) any other matter which has to be, or may be, prescribed.

**45. Power to make regulations.**—(1) A Corporation may, with the previous sanction of the State Government, make regulations, not inconsistent with this

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(c) the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than the Chief Executive Officer or General Manager and the Chief Accounts Officer.

## Air Transport Industry

During the war, air transport services were operated directly by the Government and the defence services. As a part of the post-war reconstruction programme for development of civil aviation, schemes were framed for the establishment and operation of air transport services linking the principal commercial and administrative centres of the country and connecting with the principal neighbouring countries.

In May 1945, the Government of India announced the following Policy for the development and operation of air transport services: "The Policy of the Government of India is to permit the development and operation of air transport services, internal and external, by a limited number of sound and reliable private commercial organisations, with their own capital and operated upon normal commercial principles of risks and losses and prospects of gain. The operation of air transport services would be subject to licence granted by the Government. Without such a licence no air transport service can operate. The grant of State assistance in specific cases will be entirely at the discretion of the Government and on conditions to be laid down in each case. In specific cases, the Government should take a financial interest in the companies operating air services and appoint a Director on the Board. The Government should not, however, take a controlling share in such cases."

For the purpose of implementation of its Policy regarding civil aviation and for the development of air transport industry on a sound line avoiding wasteful competition, the Government of India decided to take certain measure of control regarding operation of air services over specific routes.

The Indian Aircraft Act of 1934 was amended in March, 1944 by Act V of 1944 for licensing of air transport undertakings and prohibition of all operations of air transport without a licence. The Indian Aircraft Rules of 1937 were also amended by inserting the provisions for licensing of air transport services. The Rule framed for such purpose, provides that after the 1st October, 1946, no air transport service shall be established or shall operate in India except under the authority of, and in accordance with, a licence issued by the Air Transport

Licensing Board set up for the purpose. The constitution and functions of the Board were framed. Another Rule provides for submission of monthly operational return and annual financial return by the operating companies to the Board.

### **Air Transport Inquiry Committee**

The Government of India in the Ministry of Communication adopted a Resolution on the 8th February, 1950 noting with concern that the air transport industry had not found stability and suggesting that the operation of air transport services should be placed on a firm economic footing. The Government, therefore, set up the Air Transport Inquiry Committee with Mr. Justice G. S. Rajadhyakha of Bombay High Court as Chairman and two other members to enquire into and report upon and make recommendations in regard to the following matters, *viz*:—“(a) the present state of the air transport industry in India in regard to both internal and external services; (b) the short-coming, if any, in the organisation and management of the industry as a whole or in regard to any individual company or companies; (c) the major difficulties and defects in the industry as at present constituted; (d) the manner in which Indian air services, internal and external, could best be operated with the maximum economy having due regard to all relevant factors, including passenger fares and freight and mail rates during the five years 1950-54, providing also for adequate development of the air services and for such purpose,—(1) the reasonable needs of the industry of assistance from the State and the manner and extent of such assistance and cost thereof to the State, (2) regulation of the industry and control over its management by the State, (3) any necessary re-organisation of the industry, and (e) the desirability, practicability and economic consequences of the operation of the said air services under State ownership and management, either direct or through a body corporate, and the cost of acquisition of such ownership”.

### **Committee's Conclusions & Recommendations**

The Report of the Committee was signed on the 15th September, 1950. The Committee has made several recommendations about the reasonable cost of operation for reorganisation of air transport industry in the matter of composition of crew, flight crew salaries, emoluments of crew, reasonable flight crew utilisation, hourly operating cost dependant upon skill and efficiency of management, etc. The Committee has noted that crew utilisation in some case was as high as 130—140 hours flying in a month and has recommended that the flying hours of pilots should be limited to 1000 hours per year, following the practice in U.S.A. and Australia even though the International Civil Aviation Organisation has not prescribed any limitation to maximum flying hours for crew members. Prescription of limits in regard to flight crew utilisation is essential from the point of view of pilot's fatigue. The Committee has considered the question of the practicability of reducing costs in India by adopting the American and Australian systems of flight crew of the captain and co-pilot in place of the standard Indian flight crew of captain, co-pilot and radio operator, but has recommended that the situation be kept under review with the object of introducing a two-man flight crew as soon as practicable consistently with the highest standards of safety.

The Committee has recommended that the Government should follow the principle of financial and other assistance to air transport industry at some stage or other. The task of meeting reasonable needs of the industry for the future should be entrusted to the Air Transport Licensing Board which should be reconstituted and the Board's office should be distinct from the Civil Aviation Directorate. The Committee has recommended that the Training Programme of the Director General of Civil Aviation should be reviewed after carefully assessing the needs of the industry and the available supply during the next five years.

The Committee has recommended that the employees of air transport companies should, for the purpose of industrial disputes regarding terms and conditions of service, pay and allowances etc., be treated as falling within the union sphere, in order to secure basic uniformity in their wages and salary structure.

Though under the Industrial Policy Resolution dated the 6th April, 1948, the development of air transport industry was left to private enterprise under Governmental planning and regulation, the Committee has come to the conclusion that there is a good case for the air transport services being owned and operated by the State. The Committee has suggested that the operations of the air transport services, on State ownership, should be entrusted to a statutory Corporation and the Chairman should be an outstanding businessman with administrative ability and experience. The Corporation should be given complete autonomy from Departmental control except following the main policies as laid down by the Government and the Corporation should work on purely commercial lines.

#### **Planning Commission on Civil Aviation**

The First Five Year Plan of the Planning Commission has recommended the merger of the existing air transport companies into a single agency in charge of all scheduled air transport operations and has further recommended that the Government should have a controlling interest in the proposed new Corporation.

#### **Air Corporations Act, 1953 (XXVII of 1953)**

The Government of India examined the recommendations of the Planning Commission and decided to acquire the undertakings of all the existing air transport companies and to establish two statutory Corporations, one for international air services and the other for domestic air services. The Government introduced the Air Corporations Bill in the House of the People on the 21st March, 1953. The Air Corporations Act 1953 (XXVII of 1953) establishes two Corporations to be known as "the Indian Airlines Corporation" and "the Air India International Corporation" to provide safe, efficient, adequate, economical and properly co-ordinated air transport services, internal or international or both and to facilitate the acquisition of undertakings belonging to certain existing air companies by the two Air Corporations. The Corporations should act on business principles.

#### **Officers & Employees of the existing Air Companies**

The Act provides that all employees of the existing air transport companies excepting a director, manager, managing agent or any other person entitled to manage the whole or a substantial part of the business and affairs of the company, employed by such companies immediately prior to 1st day of July, 1952 shall be employees of the newly formed Corporations, without affecting their terms and conditions of service.

#### **Central Government's Rule-making Powers**

The Act authorises the Central Government to give directions to either of the Corporations as to the exercise and performance by the Corporation of its functions and the Corporation shall be bound to give effect to any such directions. The Act authorises the Central Government to make rules regarding the terms and conditions of service of the general managers of the two Corporations and such other categories of officers as may be specified from time to time and also for training of the employees of either of the Corporations or other persons and the amount of fees to be charged from them.

#### **Advisory and Labour Relations Committees**

The Act provides for appointment of Advisory Committee by the Central Government in consultation with the Corporation concerned for the purpose of

advising the Corporation in respect of matters referred to it and the constitution of a Labour Relations Committee by each Corporation consisting of equal number of representatives of the Corporation and its employees for the purpose of advising the Corporation on matters relating to the welfare of the employees or which are likely to promote and secure amity and good relations between the two.

### **Corporations' Power to make Regulations**

The Act authorises the Corporations, with the previous approval of the Central Government, to make regulations for carrying out their functions. Such regulations may provide for the terms and conditions of service of officers and other employees of the Corporation other than the general manager and other officers and for issue of passes by the Corporation to its officers and other employees, free of cost or at concessional rate.

### **Air Corporations Rules, 1954**

The Central Government framed the Air Corporations Rules on the 26th November, 1954 providing for particulars of the annual report to be submitted by the Corporation to the Central Government. The Rules also provide for training of operational staff and courses for theoretical and practical training, selection of candidates, levy of fees, payment of stipends and allowances during training.

The Rules also provide for constitution of Labour Relations Committee by each of the Corporations consisting of an equal number of representatives of not less than six and not more than twelve, of the Corporation and its employees. The Labour Relations Committee is to advise the Corporations on all matters relating to the welfare of the employees or which are likely to promote and secure amity and good relations between the two. In the case of difference of opinion between the Corporation and the Committee, the opinion of the Corporation shall prevail. The tenure of the office of a member of the Committee shall be two years and the officers of the Committee shall include a Chairman and a Secretary. The Chairman of the first Labour Relations Committee shall be the Chairman of the Corporation or a member of the Committee appointed by the Chairman. Thereafter the Corporation shall elect a representative of the Corporation or a representative of the employees to be the Chairman in alternate years. The Secretary shall be elected by the Committee for a period of one year from amongst the representatives of the Corporation or its employees so that if, for any term, the Chairman is a representative of the Corporation, the Secretary for that term shall be a representative of the employees and *vice-versa*. The functions of the Committee shall be purely advisory and the Corporation may or may not accept the advice tendered to it by the Committee.

### **Indian Airlines Corporation Services Committee**

The Indian Airlines Corporation at their second meeting held on the 7th August, 1953 set up a Services Committee with Shri W. R. Puranik, Retired Judge of Nagpur High Court as Chairman, Shri S. B. Bapat, I.C.S., Joint Secretary, Ministry of Home Affairs as Member and Sri G. P. Shahani, Secretary of the Air Transport Licensing Board as Secretary "to make recommendations on (i) rationalisation of pay scales for different categories of personnel and formulation of a suitable wage-structure; (ii) the procedure to be followed in bringing existing personnel on the approved new pay scales; (iii) the principles to be followed for determining seniority as between personnel of same category belonging to different companies doing more or less similar duties; and (iv) formulation of common service conditions in the matter of leave, holidays, travelling allowance rules, insurance facilities, bonus, allowances, provident fund, gratuity, pension schemes, residential accommodation, etc., etc."

The Services Committee took into account as far as possible (a) the previous practice in the several companies before nationalisation; (b) present practice in private industry; (c) present practice in governmental and semi-governmental organisations; and (d) the views placed by different individuals and groups on behalf of the employees and the Corporation.

The Committee recognised the general principle that remuneration should be commensurate with the nature and importance of the work done but felt that the Corporation should take a middle course between the lowest figure below which the employee's basic wage cannot be allowed to fall and the highest figure above which it should not be allowed to rise. The Committee accepted certain principles to find out a rational wage structure and the recommended wage structure in 19 general salary ranges, was based on a balanced application of the said principles.

The Committee made recommendations regarding (1) dearness allowance, (2) place allowance, (3) house rent allowance, (4) overtime allowance, (5) transport or conveyance allowance, (6) charge allowance, (7) entertainment allowance, (8) refreshment (emergency duty) allowance, (9) washing allowance, (10) travelling allowance for rail journey, (11) mileage allowance for duty journey by road, (12) daily allowance on tour, (13) travelling and out-station allowances on temporary transfer, (14) allowance on permanent transfer, (15) command pay, (16) efficiency bonus, overtime allowance and other allowances for flying crew, etc.

The Committee's recommendations regarding service conditions were classified under (1) recruitment, (2) probation, (3) promotion, (4) retrenchment, (5) superannuation, (6) tenure, (7) increments, (8) retirement benefits—pension, contributory provident fund, non-contributory provident fund, gratuity, (9) leave—(a) privilege leave, (b) casual leave, (c) sick leave, (d) accident or disability leave, (e) extraordinary leave without pay, (10) other types of leave—(a) quarantine leave, (b) maternity leave, (c) study leave, (11) holidays—(a) weekly holidays, (b) festival holidays, (12) compensation, (13) free and concessional air passages, (14) medical facilities, (15) housing, (16) bonus, (17) discipline, (18) rules of conduct, (19) punishment and procedure, (20) suspension, (21) appeal, (22) revision, (23) training, (24) canteens, (25) co-operative multi-purpose societies, (26) sports and physical culture, (27) library and reading room, etc.

The Committee suggested that the Labour Relations Committee should be the proper body to recommend appropriate machinery for handling complaints and grievances of the employees and should assist in framing rules for prevention and settlement of disputes and for stoppage and shut-down of work. The Committee further suggested that the Corporation should utilise the machinery of the Labour Relations Committee for mutual understanding and co-operation between the employees and the management.

### **Indian Airlines Corporation Employees Service Regulations, 1955**

The Services Committee's suggestions and recommendations were duly considered by the Indian Airlines Corporation and regulations regarding service conditions of (1) Flying Crews, (2) Aircraft Engineering Department and (3) Employees other than Flying Crews and Aircraft Engineering Department were framed, after approval of the Central Government and came into force from 1st January, 1955. The Employees Service Regulations have been published in the Gazette of India under a notification dated the 6th April, 1955 and are set out under the following headings—(1) general, (2) definitions, (3) recruitment and appointment, (4) promotion and seniority, (5) service records, (6) pay and allowances, (7) travelling and daily allowances, (8) leave, (9) compensation, (10) medical facilities, (11) uniforms, (12) discipline and appeals, (13) retirement benefits, for all the three categories of employees; and (1) free and concessional air passages and (2) holidays, for the two categories of employees other than Flying Crews.

### **Employees Conduct Rules & Disciplinary Procedure Regulations, 1955**

The Indian Airlines Corporation also framed regulations regarding Rules of Conduct and Disciplinary Procedure with the previous approval of the Central Government and enforced them with effect from the 1st of January, 1955. These Regulations were published in the Gazette of India under a notification dated the 16th April, 1955. Under the regulations an employee is a wholetime servant of the Corporation and he is debarred from engaging in any other business, occupation or accepting any fees, emolument, etc., from any party or permitting any of his relations to accept the same or from taking part in the promotion, registration or management of any commercial undertakings. He is not permitted to speculate in investment and should avoid habitual indebtedness. The term "misconduct" includes acts of omission or commission of 44 items clearly mentioned in the regulations. Under the disciplinary procedure, penalties of different kinds may be imposed upon the employees for good and sufficient cause.

### **I. L. O. Study on Civil Aviation Workers**

The International Labour Organisation has adopted several Conventions and Recommendations regarding conditions of work, industrial safety, protection of health, etc., of different categories of transport labour engaged in railways, docks, sea services and motor transport but no International Standard has so far been prescribed to protect the Civil Aviation Workers.

As the safety of air travel depends much on the number of hours the pilot can fly and as it is reasonable that the civil aviation workers should be provided with the conditions of service comparable with other workers, the Governing Body of the International Labour Organisation has called an *ad-hoc* meeting on Conditions of Employment in Civil Aviation. The Committee will discuss the hours of work of flight personnel after retirement or grounding and review the conditions of employment in civil aviation generally. Though the I. L. O. urged the desirability of a study on the conditions of labour in air transport as early as in 1929, and reiterated the same in 1948, no definite step was taken so long in this respect.

The International Labour Office is collecting informations for the use of the Committee. Many countries have adopted regulations limiting flying hours either at one stretch or in the course of a day and also imposing further restrictions on the number of flying hours in a month, quarter or year, but there is no uniformity in such regulations. There is no criterion to determine after how many hours pilot fatigue sets in. The safety factor is of vital importance to the public travelling by air and in some cases of accidents, it was found that the pilot was on duty for more than 20 hours and therefore the pilot fatigue was to a greater extent, responsible for the accident. Similarly frequent landings and take-offs, flying at lower altitude and in inclement weather, with quick meals and frequent briefings, are also causes of pilot fatigue. Apart from the safety factor, the flight personnel should have scheduled hours of duty and periods of rest like other categories of workers.

A discussion with the employers and workers under the auspices of the International Labour Organisation, will provide valuable suggestions for formulating an international standard for protection of aircraft crews and flight personnel generally.

## **AIR CORPORATIONS ACT, 1953 (XXVII OF 1953)**

### **Statement of Objects and Reasons<sup>1</sup>**

The Government for some time past have been considering the question as to the best manner in which the existing air services in India could be co-ordinated and rationalised with a view to improving air transport facilities.

2. This question was examined by the Planning Commission in May, 1952, when it was agreed that under the present conditions of traffic load and intensity of operation, development of the air transport industry on an economic basis could be achieved only if there was a single agency in charge of all scheduled air transport operations.

3. The recommendation of the Planning Commission has been further examined in detail. It is now proposed to acquire the undertakings of all the existing air transport companies and to establish two Corporations, one for the operation of long-distance international air services and the other for domestic air services and for services to neighbouring countries, such as Pakistan, Ceylon, Iran, Afghanistan and Burma. It is proposed that the undertakings of the Air-India International Limited, should be acquired and the relevant air services operated by a Corporation wholly owned and managed by the State but bearing the same name, viz., Air-India International. The undertaking of the other air companies would be acquired by another State Corporation called "Indian Airlines".

4. The two Air Corporations will take over the undertakings of all existing air companies as going concerns and all the personnel of those companies who were employed by them on the 30th June, 1952, would be transferred to the two Corporations and their terms and conditions of service, unless altered by the Corporations, will continue to be the same. Employees appointed bonafide after that date and prior to the date of taking over may also be taken over by the Corporations.

5. The compensation to be paid to existing air companies for the acquisition of their undertakings will be based on the valuation of their assets after making due allowance for all liabilities. The assets will be valued with reference to the cost which each company incurred when it acquired a particular asset and provision for depreciation is made somewhat on the lines of the provisions contained in the Indian Income-tax Act, 1922. There are minor variations with respect to certain items of assets, viz., aircraft, aero-engines, etc. The principles of compensation are detailed in the Schedule appended to the Bill and the amount of compensation in the case of each company is to be settled in agreement with the company on the basis of those principles. In the absence of agreement, the assessment of compensation would be made by a Tribunal for the constitution of which provision is made in the Bill. The Tribunal will consist of three members appointed by the Central Government one of whom will be a Judge of a High Court.

6. For the purpose of ascertaining what liabilities actually vest in the two Corporations, the Bill requires existing air companies to furnish particulars of all their liabilities and obligations within a specified time and incidentally power is given to the two Corporations to challenge before Tribunal any particular transaction involving liability if the transaction had not been entered into in good faith or if it was considered imprudent.

7. Once the undertakings of the existing air companies vest in the two Corporations the operation of scheduled air transport services will become a monopoly of the two Corporations.

8. It shall be the duty of each of the two Corporations to provide safe, efficient, adequate, economical and properly co-ordinated air transport services at reasonable charges both internal and international and the Bill contains adequate provisions for the exercise of suitable control by the Central Government on the activities of the two Corporations, which include power to issue directions.

9. The Bill also makes the provisions for certain incidental matters like the setting up of an Air Transport Council to which may be referred matters of common interest to the two Corporations, and a Labour Relations Committee for promoting and securing amity and good relations between employers and employees.

## **AIR CORPORATIONS ACT, 1953 (XXVII OF 1953) (EXTRACTS)**

### **Arrangement of Sections**

#### **CHAPTER I—PRELIMINARY**

1. Short title and commencement.
2. Definitions.

<sup>1</sup> Gazette of India Extraordinary, 1953, Part II—Sec. 2, pages 148-149.



## CHAPTER II—CONSTITUTION AND FUNCTIONS OF THE CORPORATIONS

3. Incorporation of the Corporations.
4. Constitution of the Corporations.
7. Functions of the Corporations.
8. Appointment of officers and other employees of the Corporations.
9. Corporations to act on business principles.

## CHAPTER III—FINANCE, ACCOUNTS AND AUDIT

12. Funds of the Corporations.
13. Powers of the Corporations in regard to expenditure.

## CHAPTER IV—ACQUISITION OF UNDERTAKINGS OF EXISTING AIR COMPANIES

20. Provisions respecting officers and employees of existing air companies.

## CHAPTER VI—CONTROL OF CENTRAL GOVERNMENT

34. Power of the Central Government to give directions.
36. Submission of programme of work for each year.
37. Submission of Annual Reports to Parliament.

## CHAPTER VII—MISCELLANEOUS

38. Corporations to act in mutual consultation.
40. Corporations may delegate their powers.
41. Advisory and Labour Relations Committees.
44. Power to make rules.
45. Power of Corporations to make regulations.

AIR CORPORATIONS ACT, 1953 (XXVII OF 1953) (EXTRACTS)<sup>1</sup>

*An Act to provide for the establishment of Air Corporations, to facilitate the acquisition by the Air Corporations of undertakings belonging to certain existing air companies and generally to make further and better provisions for the operation of air transport services.*

[28th May, 1953]

Be it enacted by Parliament as follows:—

## CHAPTER I—PRELIMINARY

1. **Short title and commencement.**—(1) This Act may be called the Air Corporations Act, 1953.

(2) It shall come into force on such date<sup>2</sup> as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

- (i) "aircraft" means any machine which can derive support in the atmosphere from reactions of the air and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;
- (ii) "air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or a series of flights;
- (iv) "Corporations" means "Indian Airlines" and "Air-India International" established under section 3, and "Corporation" means either of the Corporations;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India Extraordinary, 1953, Part II—Section 2, pages 148-149, see also page 769 ante.

<sup>2</sup> 28th May, 1953, vide the Ministry of Communications Notification No. S.R.O. 968A dated the 28th May, 1953 published in the Gazette of India Extraordinary, 1953, Part II—Sec. 3, p. 1762A.

- (vi) "prescribed" means prescribed by rules made under this Act;
- (vii) "regulations" means regulations made by either of the Corporations under section 45;
- (viii) "Scheduled air transport service" means an air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, each flight being open to use by members of the public;

## CHAPTER II—CONSTITUTION AND FUNCTIONS OF THE CORPORATIONS

**3. Incorporation of the Corporations.**—(1) With effect from such date<sup>3</sup> as the Central Government may, by notification in the Official Gazette, appoint, there shall be established two Corporations to be known as "Indian Airlines" and "Air-India International".

(2) Each of the Corporations aforesaid shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property, and may by its name sue and be sued.

**4. Constitution of the Corporations.**—(1) Each of the Corporations shall consist of not less than five but not more than nine members appointed by the Central Government and one of the members shall be appointed by the Central Government to be the Chairman of the Corporation:

Provided that—

- (a) the same person may be appointed to be the Chairman of both the Corporations or Chairman of one and member of the other;
- (b) the same persons may be appointed to be members of both the Corporations.

(2) Before appointing a person to be a member of either of the Corporations, the Central Government shall satisfy itself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Corporation and the Central Government shall also satisfy itself from time to time with respect to every member of the Corporation that he has no such interest; and any person who is, or whom the Central Government proposes to appoint and who has consented to be a member of the Corporation shall, whenever required by the Central Government so to do, furnish to it such information as the Central Government considers necessary for the performance of its duties under this sub-section.

(3) A member of either of the Corporations who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation, or in any contract made or proposed to be made by an associate of the Corporation which is brought up for consideration by the Corporation, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Corporation; and the disclosure shall be recorded in the minutes of the Corporation, and the member shall not take any part after the disclosure in any deliberation or decision of the Corporation with respect to that contract.

(4) During the temporary absence of the Chairman of either of the Corporations, the Central Government may appoint another person, whether a member of the Corporation or not, to act as the Chairman.

<sup>3</sup> 15th June, 1953, vide Notification No. S.R.O. 1125 dated the 12th June, 1953 in the Gazette of India Extraordinary, 1953, Part II—Sec. 3, p. 1935.

(5) Save as otherwise provided in this section, nothing contained in this Act shall be deemed to disqualify the General Manager of either of the Corporations from being appointed to be a member thereof.

**7. Functions of the Corporations.**—(1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of each of the Corporations to provide safe, efficient, adequate, economical and properly co-ordinated air transport services, whether internal or international or both, and the Corporations shall so exercise their powers as to secure that the air transport services are developed to the best advantage and, in particular, so exercise those powers as to secure that the services are provided at reasonable charges.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), each of the Corporations shall, in particular, have power—

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(b) to provide for the instruction and training in matters connected with aircraft or flight by aircraft of persons employed, or desirous of being employed, either by the Corporation or by any other person;

\* \* \* \* \*

(l) to take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power, or the discharge of any function or duty conferred or imposed on it by this Act.

(3) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Corporation of any law for the time being in force, or

(b) authorising any person to institute any proceeding in respect of a duty or liability to which either of the Corporations or its employees would not otherwise be subject.

**8. Appointment of officers and other employees of the Corporations.**—(1) For the purpose of enabling it efficiently to discharge its functions under this Act, each of the Corporations shall appoint a General Manager and, subject to such rules as may be prescribed in this behalf, may also appoint such number of other officers and employees as it may think necessary:

Provided that the appointment of the General Manager and such other categories of officers as may be specified after consultation with the Chairman in such rules shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 20, every person employed by each of the Corporations shall be subject to such conditions of service and shall be entitled to such remuneration and privileges as may be determined by regulations made by the Corporation by which he is employed.

(3) Neither the General Manager nor such other employee of either of the Corporations as may be specified in this behalf by the Central Government shall, during his service in the Corporation, be employed in any capacity whatsoever or directly or indirectly have any interest in any air transport undertaking other than an undertaking of either of the Corporations, or in any other undertaking which is interested in any contract with either of the Corporations.

**9. Corporations to act on business principles.**—In carrying out any of the duties vested in it by this Act, each of the Corporations shall act so far as may be on business principles.

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## CHAPTER III—FINANCE, ACCOUNTS AND AUDIT

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**12. Funds of the Corporations.**—(1) Each of the Corporations shall have its own funds and all receipts of the Corporation shall be carried thereto and all payments for the Corporation shall be made therefrom.

(2) Each of the Corporations may keep in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934 (II of 1934) or in any other bank approved by the Central Government in this behalf a sum of money not exceeding such amount as may be prescribed, but any monies in excess of the said sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government.

**13. Powers of the Corporations in regard to expenditure.**—Each of the Corporations shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit on objects or for purposes authorised by this Act and such sum shall be treated as expenditure out of the funds of that Corporation.

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## CHAPTER IV—ACQUISITION OF UNDERTAKINGS OF EXISTING AIR COMPANIES

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**20. Provisions respecting officers and employees of existing air companies.**—

(1) Every officer or other employee of an existing air company (except a director, managing agent, manager or any other person entitled to manage the whole or a substantial part of the business and affairs of the company under a special agreement) employed by that company prior to the first day of July, 1952 and still in its employment immediately before the appointed date<sup>4</sup> shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in either of the Corporations by virtue of this Act, become as from the appointed date an officer or other employee, as the case may be, of the Corporation in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the existing air company if its undertaking had not vested in the Corporation and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms or conditions are duly altered by the Corporation:

Provided that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Corporation concerned prior to such date as may be fixed by the Central Government by notification in the Official Gazette, intimated his intention of not becoming an officer or other employee of the Corporation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may direct either of the Corporations in which the undertaking of any existing air company has vested to take into its employment any officer or other employee who was employed by the existing air company prior to the first day of July, 1952, and who has been discharged from service in that company on or after the said date for reasons which, in the opinion of the Central Government, appear to be inadequate for the purpose, and where the Central Government issues any such direction, the provisions of sub-section (1) shall apply to such officer or other employee as they apply to any officer or other employee referred to therein.

<sup>4</sup> 10th July, 1953, vide Notification No. S.R.O. 1170 dated the 15th June, 1953 in the Gazette of India, 1953, Part II—Sec. 3, p. 882.

(3) As from the appointed date the Trustees of the provident funds and pension funds or pension schemes of each of the existing air companies shall transfer to the Corporation concerned the balances lying to the credit of each of the employees whose services have been transferred to that Corporation by virtue of this Act and also all other balances of the funds or schemes as shall remain after satisfying all demands and liabilities, and thereupon the trustees shall be discharged of the trusts by virtue of this Act.

(4) Notwithstanding anything contained in this Act or in the Indian Companies Act, 1913 (VII of 1913)<sup>5</sup> or in any other law for the time being in force or in any agreement entered into by an existing air company or in the articles of association of any such company, no director, managing agent, manager or any other person entitled to manage the whole or a substantial part of the business and affairs of the company shall be entitled to any compensation against any existing air company or against either of the Corporations for the loss of office or for the premature termination of any contract of management entered into by him with any existing air company and where any existing air company has, after the first day of July, 1952, and before the commencement of this Act, paid to any such person as is referred to in this sub-section any sum by way of compensation to which the person receiving such compensation would not have been entitled if this sub-section were in force at the time of such payment, the existing air company shall be entitled to claim refund of any sum so paid.

#### CHAPTER VI—CONTROL OF CENTRAL GOVERNMENT

**34. Power of Central Government to give directions.**—(1) The Central Government may give to either of the Corporations directions as to the exercise and performance by the Corporation of its functions, and the Corporation shall be bound to give effect to any such directions.

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**36. Submission of programme of work for each year.**—(1) Each of the Corporations shall prepare and submit to the Central Government, not less than three months before the commencement of the financial year of the Corporation a statement showing the programme of operation and development of air transport services to be operated by the Corporation and its associates during the forthcoming financial year and its other activities as well as its financial estimates in respect thereof, including any proposed investment of capital and increase in the strength of its total staff.

**37. Submission of Annual Reports to Parliament.**—(1) Each of the Corporations shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during the previous financial year, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Corporation during the next financial year.

(2) The Central Government shall cause every such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

#### CHAPTER VII—MISCELLANEOUS

**38. Corporations to act in mutual consultation.**—It shall be the duty of each of the Corporations to enter into consultations with the other in matters of common interest to the two Corporations including, in particular, the operation of scheduled air transport services, the routes on which such services should be operated by each

<sup>5</sup> See now the Companies Act, 1956 (1 of 1956).

of the Corporations, the frequency of such services, the passenger fares and freight rates to be charged, the measures of economy to be adopted, the provision of any services in regard to overhaul and maintenance of aircraft or any other matter falling within the scope of the functions of either of the Corporations, and, generally, in regard to ensuring the fullest co-operation and co-ordination in respect of all such matters.

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**40. Corporations may delegate their powers.**—(1) Each of the Corporations may appoint a Committee or Committees consisting of some or any of its members with or without the addition of any officer or employee of the Corporation and delegate any of the functions and powers of the Corporation to such Committee or Committees and may limit the exercise of such delegated authority to any specified area.

(2) Either of the Corporations may, in relation to any particular matter or class of matters or to any particular area, by general or special order, direct that any of its officers or other employees may also exercise all or any of its powers under this Act (except the powers given to it by this section) to the extent to which the Corporation deems it necessary for the efficient running of its day to day administration.

**41. Advisory and Labour Relations Committees.**—(1) The Central Government, in consultation with the Corporation concerned, may appoint an Advisory Committee consisting of such number of persons as it may think fit for the purpose of advising the Corporation in respect of such matters as may be referred to it by the Corporation or as may be prescribed.

(2) Each of the Corporations shall constitute in the prescribed manner a Labour Relations Committee consisting of representatives of the Corporation and of its employees, so however, that the number of representatives of the employees on the Committee shall not be less than the number of representatives of the Corporation, and it shall be the duty of the Labour Relations Committee to advise the Corporation on matters which relate to the welfare of the employees or which are likely to promote and secure amity and good relations between the two.

**44. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of service of the General Managers of the two Corporations; and such other categories of officers as may be specified from time to time under sub-section (1) of section 8.

\* \* \* \* \*

(c) the reports which should be submitted by the Corporations and the intervals within which they should be so submitted;

\* \* \* \* \*

(f) the provision of depreciation, reserve and other funds;

\* \* \* \* \*

(j) the training of the employees of either of the Corporations or other persons and the fees which may in its discretion be charged therefor;

\* \* \* \* \*

(l) the prohibition of any interference with any air transport service or with any property of the Corporation or of any interference with or obstruction of any officer or employee of the Corporation in the performance of his duty;

- (m) the punishment which shall not exceed imprisonment for three months or fine of rupees one thousand but which may consist of both such imprisonment and fine, in respect of any contravention of the provisions of any rules made under this section.

(3) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made.

**45. Power of Corporations to make regulations.**—(1) Each of the Corporations may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act or the rules made thereunder for the administration of the affairs of the Corporation and for carrying out its functions.

(2) In particular and without prejudice to the generality of the foregoing power, any such regulations may provide for all or any of the following matters, namely:—

\* \* \* \*

- (b) the terms and conditions of service of officers and other employees of the Corporation other than the General Manager and officers of any other categories referred to in section 44;
- (c) the issue of passes by the Corporation to its officers and other employees either free of cost or at concessional rates for travel on its air services and the conditions relating thereto;

## AIR CORPORATIONS RULES, 1954 (EXTRACTS)

### Arrangement of Paragraphs

#### CHAPTER I—PRELIMINARY

1. Short title.
2. Definitions.

#### CHAPTER III—STATISTICS, REPORTS AND RETURNS

15. Reports.

#### CHAPTER V—TRAINING OF OPERATIONAL STAFF

36. Provision of courses for theoretical and practical training.
37. Liability of an employee to undergo training and test.
38. Deputation for specialised training.
39. Levy of fees.
40. No fees for testing the proficiency of an employee for performance of assigned duties.
41. Payment of stipends and allowances during training.
42. Selection of candidates for undergoing training.

#### CHAPTER VI—INTERFERENCE

43. Interference with the property and employees of the Corporation.

#### CHAPTER IX—LABOUR RELATIONS COMMITTEE

51. Constitution.
52. Functions of officers.
53. Meetings.
54. Attendance at meetings.
55. Agenda and notice for meeting.
56. Facilities for the meeting.
57. Administration and working.
58. Proceedings and decisions of the Committee.

#### CHAPTER X—PENALTIES

59. Penalties.

## AIR CORPORATIONS RULES, 1954 (EXTRACTS)<sup>1</sup>

In exercise of the powers conferred by section 44 of the Air Corporations Act, 1953 (27 of 1953), the Central Government hereby makes the following rules, namely:—

### CHAPTER I

1. **Short title.**—These rules may be called the Air Corporations Rules, 1954.
2. **Definitions.**—In these rules, unless the context otherwise requires:
  - (a) "the Act" means the Air Corporations Act, 1953 (27 of 1953);
  - (b) "Chairman" means the Chairman of the Corporation;
  - (c) "Corporation" means the Indian Airlines or, as the case may be, the Air India International Corporation, as the context in each case may require;
  - (d) "General Manager" means the General Manager of the Corporation;
  - (e) "secretary" means the secretary to the Corporation;
  - (f) "member" means a member of the Corporation; and
  - (g) "section" means a section of the Act.

### CHAPTER III—STATISTICS, REPORTS AND RETURNS

15. **Reports.**—(1) The annual report to be submitted by the Corporation to the Central Government under section 37 regarding its activities during the previous financial year, shall contain particulars, amongst others, in respect of the following items and shall be in such form as the Central Government may from time to time direct, namely:

(a) routes; (b) operations; (c) traffic and sales; (d) passenger services; (e) engineering and maintenance; (f) staff; (g) organisation; (h) finance and accounts; and (i) subsidiary and associate companies.

(2) The Corporation shall also submit, along with the annual report under section 37, a separate report on the operational result of any additional service or other ancillary activity undertaken during the previous financial year in pursuance of the proviso to sub-section (2) of section 36. Every such report shall contain, subject to any addition or alteration which may be specified from time to time, particulars in respect of the following matters, namely—

- (a) the places to and from which the air transport service is operated including intermediate stops;
- (b) the number and types of the aircraft operated on the air transport service, with such particulars of the aircraft and engines as may be required; and
- (c) the number of pilots, wireless operators and other members of the aircrew employed on the service and the number of licensed ground engineers and other technical or non-technical personnel employed.

\* \* \* \* \*

### CHAPTER V—TRAINING OF OPERATIONAL STAFF

36. **Provision of courses for theoretical and practical training.**—The Corporation shall arrange for theoretical and practical training of its flying crew, maintenance and operational staff and its technical personnel in consultation with the Director-General of Civil Aviation:

Provided that the Corporation may, in its discretion, admit other persons also to undergo such courses of training.

37. **Liability of an employee to undergo training and test.**—An employee of any of the categories specified in rule 36 when called upon by the Corporation to do so, shall undergo such courses of training, examination and tests, whether practical or theoretical, written or oral, as may from time to time be laid down by the Corporation.

38. **Deputation for specialised training.**—(1) The Corporation may, in its discretion, or if so desired by the Central Government, shall depute any of its employees for specialised training to a technical institution either in India or abroad. The employees shall undergo and satisfactorily complete the course of training in such institution.

(2) An employee selected for a specialised training shall, if so required by the Chairman before the commencement of training, execute an agreement binding himself to serve the Corporation for such minimum period on the completion of his training as the Chairman

<sup>1</sup> These Rules were published under the Ministry of Communications Notification No. S.R.O. 3520 dated the 26th November, 1954 in Gazette of India, 1954, Part II—Sec. 3, p. 2735.



may require, or in the alternative to refund to the Corporation the sums paid by the Corporation to him during the period of his training, whether as salary, stipends, fees, travelling expenses, or otherwise.

**39. Levy of fees.**—No fee shall be charged or levied by the Corporation in respect of courses of training provided, or examinations and tests conducted, for their employees and connected with the nature of duties assigned to such employees:

Provided that nothing herein contained shall restrict the right of the Corporation to levy the prescribed fees in respect of persons other than its employees.

**40. No fees for testing the proficiency of an employee for the performance of assigned duties.**—No fee shall be charged for any examination or test conducted by the Corporation for testing the proficiency of an employee of the Corporation for the performance of duties assigned to him.

**41. Payment of stipends and allowances during training.**—The Corporation shall pay such stipends and allowances in addition to the normal emoluments as may be specified from time to time whenever an employee of the Corporation is deputed for training either in India or abroad.

**42. Selection of candidates for undergoing training.**—The selection of candidates, not in the service of the Corporation, for undergoing courses of training established by the Corporation or arranged for either in India or abroad shall be made by one or more selection boards to be nominated by the Corporation in consultation with the Director-General of Civil Aviation:

Provided that nothing contained herein shall restrict the right of the Corporation to nominate separate selection boards for selecting employees of the Corporation for different courses of training.

#### CHAPTER VI

**43. Interference with the property and employees of the Corporation.**—(1) Save as otherwise authorised under the provision of any law for the time being in force, no person shall, directly or indirectly, interfere with or cause interference with the operation of any air transport service or with any property of the Corporation or interfere with or obstruct a member of the operating crew of an aircraft in the performance of his duty or tamper with the aircraft or its equipment or conduct himself in a disorderly manner in an aircraft or commit any act likely to imperil the safety of an aircraft or its passenger or crew.

(2) Any person who contravenes any of the provisions of this rule shall be punishable in respect of every such contravention with imprisonment which may extend to three months or with fine which may extend to rupees one thousand or with both.

(3) Notwithstanding the contract of carriage, the pilot in command of an air transport service may refuse to carry any person in the aircraft if such person tampers with the aircraft or its equipment or commits any act likely to imperil its safety.

\* \* \* \* \*

#### CHAPTER IX—LABOUR RELATIONS COMMITTEE

**51. Constitution.**—(1) (a) A Labour Relations Committee shall be constituted by each of the Corporations consisting of such equal number of representatives of the Corporation and of its employees, which shall not be less than six and not more than twelve, as the Corporation may, from time to time, by resolution, determine.

(b) It shall be the duty of the Labour Relations Committee to advise the Corporation on all matters which relate to the welfare of the employees or which are likely to promote and secure amity and good relations between the two. If there is any difference of opinion between the Corporation and the Committee on any question as to whether or not any particular matter relates to the welfare of the employees or is one which is likely to promote and secure amity and good relations between the Corporation and its employees, the opinion of the Corporation shall prevail.

(2) (a) The tenure of office of a member of the Committee shall be two years but an outgoing member shall be eligible for being re-elected.

(b) If any casual vacancy occurs in the office of a member of the Committee, the Corporation shall, as soon as may be after the occurrence of the vacancy and subject always to the provisions of sub-rules (3) and (4), appoint a person to fill the vacancy from among its own representatives or representatives of its employees according as the member causing the casual vacancy was a representative of the Corporation or, as the case may be, a representative of its employees and every member so appointed shall continue in office for the unexpired term of his predecessor.

(3) The Corporation shall nominate its own representatives on the Committee.

(4) The representatives of employees on the Committee shall be elected by the employees of the Corporation by means of a secret ballot from amongst themselves working in the various units and for the purposes of the same, the Corporation shall divide the employees into six units:

Provided that the representatives of the employees shall be so elected as to ensure a representation to each of the units.

(5) (a) The officers of the Committee shall include—

(i) a Chairman; and

(ii) a Secretary;

(b) The principal executive officer of the Corporation in charge of labour welfare shall be entitled to attend all meetings of the Committee and shall also have the right to speak at, and otherwise take part in, any meeting of the Committee but shall not be entitled to vote or move any resolution, if he is not a member thereof.

(6) The Chairman of the first Labour Relations Committee shall be the Chairman of the Corporation or a member of the Committee appointed by the Chairman in this behalf. Thereafter the Committee shall elect one of its members to be the Chairman of the Committee, so however, that a representative of the Corporation or a representative of its employees is the Chairman of the Committee in alternate years.

(7) The Secretary of the Committee shall be elected by the Committee for a period of one year from amongst the representatives of the Corporation and of the employees, so however, that if, in any term, the Chairman of the Committee is a representative of the Corporation, the Secretary for that term shall be a representative of the employees of the Corporation to be elected from amongst its own number and *vice-versa*.

(8) The Committee may constitute one or more *ad hoc* sub-committees as it thinks fit to inquire into any matter and submit its report to the Committee or may appoint a Standing and Branch or Regional sub-committee and entrust to it such functions and duties as the Committee may with the previous approval of the Corporation direct.

**52. Functions of officers.**—(1) The Chairman of the Committee shall ordinarily preside over meetings and shall exercise general control and supervision. He shall also decide all questions of order at the meeting.

(2) In the absence of the Chairman any other member elected by the members present shall preside at a meeting.

(3) The Secretary shall keep a record of the minutes of meetings.

**53. Meetings.**—(1) Meetings shall ordinarily be held at least once in two months at the headquarters of the Corporation or at such other places as the Chairman of the Corporation or the Committee may determine. If and when necessary, special meetings may be convened by the Chairman.

(2) A special meeting shall be held at a fortnight's notice on a requisition made by at least five members of the Committee, for consideration of any urgent matter.

**54. Attendance at meetings.**—(1) The members of the Committee shall be considered to be on duty for the period of attendance at meetings of the Committee or while doing any other work for, and on behalf of the Committee and shall be paid the usual travelling and daily allowances and wages, including other allowances, for such period.

(2) Any member who fails to attend three consecutive meetings shall forfeit his membership, unless the Committee decides otherwise. This provision shall not apply to the Chairman.

**55. Agenda and notice for meeting.**—(1) The agenda for each meeting shall be drawn up by the Secretary under the Chairman's directions and the same shall be supplied to each member of the Committee along with the notice of the meeting at least a week before the meeting, except in the case of a special meeting. Members desiring to raise any question should send notice in advance along with a memorandum. It shall be included in the agenda if approved by the Chairman.

(2) Business other than that appearing in the agenda shall be considered at any meeting, only with the permission of the Chairman. The presence of a majority of members from each side of the Committee, that is to say, from among the representatives of the Corporation and representatives of the employees, shall be necessary to constitute a quorum. No quorum shall be necessary for an adjourned meeting.

**56. Facilities for the meeting.**—Accommodation for holding meetings and all other facilities necessary for the functioning of the Committee shall be provided by the Corporation.

**57. Administration and working.**—(1) The Chairman of the Committee shall be in the administrative charge of the Committee office, records, and equipment of the Committee.

(2) The Secretary shall assist the Chairman in the administration and working of the Committee's office.

**58. Proceedings and decisions of the Committee.**—(1) All questions brought before any meeting of the Committee shall be decided by a majority of the members of the Committee present and voting before which the matter is brought and in the case of equality of votes, the Presiding authority at the meeting shall have a second or casting vote.

(2) The functions of the Committee shall be purely advisory and the Corporation may or may not accept any advice tendered to it by the Committee.

(3) Minutes of meetings shall be drawn up by the Secretary and after approval by the Chairman, he shall send a copy of the same to each member.

(4) It shall be lawful for the Committee to give such publicity to all important matters relating to the welfare of the employees of the Corporation as the Corporation may from time to time direct.

#### CHAPTER X—PENALTIES

**59.** If any person contravenes any provision of these rules other than the rules for the contravention of whose provision separate penalty has been provided in such rules, he shall be punishable with fine which may extend to one thousand rupees.

### INDIAN AIRLINES CORPORATION EMPLOYEES SERVICE REGULATIONS, 1955

(a) THE INDIAN AIRLINES CORPORATION (FLYING CREW) SERVICE RULES, 1955

(b) THE INDIAN AIRLINES CORPORATION (AIRCRAFT ENGINEERING DEPARTMENT) SERVICE RULES, 1955

(c) THE INDIAN AIRLINES CORPORATION (EMPLOYEES OTHER THAN FLYING CREW AND AIRCRAFT ENGINEERING DEPARTMENT) SERVICE RULES, 1955

### INDIAN AIRLINES CORPORATION EMPLOYEES SERVICE REGULATIONS, 1955<sup>1</sup>

In exercise of the powers conferred by clauses (b) and (c) of sub-section (2) of section 45 of the Air Corporations Act, 1953, (27 of 1953) the Indian Airlines Corporation, with the previous approval of the Central Government, hereby notifies the following regulations, which have come into force from the 1st January, 1955, namely:—

**1. Short title.**—These Regulations may be called the Indian Airlines Corporation Employees Service Regulations, 1955.

**2.** The conditions of service, recruitment, promotion, discipline, control and appeal, pay and allowances (including travelling and other allowances), leave and retirement benefits of (a) Flying Crew; (b) Aircraft Engineering and (c) other employees, shall be respectively as in the following rules, namely—

(a) The Indian Airlines Corporation (Flying Crew) Service Rules.

(b) The Indian Airlines Corporation (Aircraft Engineering Department) Service Rules.

(c) The Indian Airlines Corporation (Employees other than Flying Crew and Aircraft Engineering Department) Service Rules.

#### (a) SERVICE RULES FOR FLYING CREW

##### Arrangement of Paragraphs

#### CHAPTER I—GENERAL

1. Short title.
2. Purposes.
3. Enforcement.

<sup>1</sup> These Regulations were published under Indian Airlines Corporation Notification No. S.R.O. 781 in Gazette of India Extraordinary, 1955, Part II—Section 3, page 465.

4. Corporation's right.
5. Final interpretation by Corporation.

## CHAPTER II—DEFINITIONS

6. Definitions.

## CHAPTER III—RECRUITMENT AND APPOINTMENT

7. Establishment strength.
8. Appointments.
9. Probationary period.
10. Medical Certificate.
11. Training.
12. Flying Crew.
13. Termination of service.

## CHAPTER IV—PROMOTION AND SENIORITY

14. Promotion.
15. Officiating pay.

## CHAPTER V—SERVICE RECORDS

16. Service Book.
17. Authorised official record.
18. Confidential Rolls.

## CHAPTER VI—PAY AND ALLOWANCES

19. Pay.
20. Dearness Allowance.
21. Place Allowance.
22. Transport.
23. Efficiency Bonus.
- 23A. Navigator's Allowance.
24. Overtime Allowance.
25. Chief Pilot's Allowance.
26. Chief Check Pilot's Allowance.
27. Instructor's Allowance.
28. Washing Allowance.
29. Foreign Allowance.
30. Regulations of pay and allowances.
31. Initial pay on appointment.
32. Increment.

## CHAPTER VII—TRAVELLING AND DAILY ALLOWANCES

33. Actual expenses.
34. Duty journeys.
35. Class of rail accommodation.
36. Temporary Duty (Tour).
37. Temporary Transfer.
38. Permanent Transfer.
39. Mileage Allowance.
40. Claim for Travelling Allowances.
41. Daily Allowance.
42. Increase of Daily Allowance.
43. Rates of Daily Allowance in countries outside India.
44. Mileage Allowance for journey by road.

## CHAPTER VIII—LEAVE

45. Casual Leave.
46. Privilege Leave.
47. Sick Leave.
48. Accident and Disability Leave.
49. Study Leave.
50. Quarantine Leave.
51. General conditions regarding all kinds of leave.

## CHAPTER IX—COMPENSATION

52. Rates and Conditions of Compensation.
  - A. Flying Accidents.
  - B. For loss of luggage of personal effects of flying personnel.

## CHAPTER X—MEDICAL FACILITIES

53. Medical Facilities.

## CHAPTER XI—FREE AND CONCESSIONAL AIR PASSAGES

54. Free Return Air Passage.
55. Concessional Return Passages.
56. Passage transferable to wife and dependent children.

## CHAPTER XII—UNIFORMS

57. Supply of Free Uniforms.

## CHAPTER XIII—DISCIPLINE AND APPEALS

58. Issue of Standing Orders.
59. Right to Appeal.

## CHAPTER XIV—RETIREMENT BENEFITS

60. Contribution to Provident Fund.
  61. Payment of accumulated balance.
- APPENDICES.

## (a) SERVICE RULES FOR FLYING CREW

## CHAPTER I—GENERAL

1. These rules shall be known as the Indian Airlines Corporation (Flying Crew) Service Rules.
2. They are intended to define conditions of service, recruitment, promotion, discipline, control and appeal, pay and allowances (including travelling and other allowances), leave and retirement benefits.
3. These rules shall come into force with effect from the 1st of January, 1955, and shall apply to Flight Stewards, Air Hostesses, Radio Officers, Flight Navigators, Flight Engineer and Pilots (only Flying Crew) in the whole-time employment of the Indian Airlines Corporation and to those under contract agreement to the extent not otherwise specified in the contract.
4. The Corporation reserve to themselves the right to modify, cancel, or amend all or any of these rules, or any supplementary rules issued in connection with these rules, without previous notice of their intention, and the right to give effect thereto immediately from the time or date of issue.
5. The Corporation reserve to themselves the right of interpreting finally the meaning of these rules in case of dispute.

## CHAPTER II

6. Unless there be something repugnant in the subject or context, the terms defined in this Chapter are used in these rules in the sense here explained:—

- (1) *Chairman*.—Chairman of the Corporation.
- (2) *Compensatory allowance*.—Compensatory allowance means an allowance granted to meet expenditure necessitated by the special circumstances in which duty is performed *viz.*, dearness allowance, place allowance, transport allowance, foreign allowance etc.;
- (3) *Competent authority*.—In relation to the exercise of any power, the Chairman of the Corporation or any other authority to which the power is delegated by him.
- (4) *Corporation*.—The Indian Airlines Corporation constituted under the Air Corporations Act, 1953, (No. 27 of 1953).
- (5) *Employee*.—A person in the whole-time service of the Corporation.
- (6) *Family*.—Includes the employee's wife (one only), legitimate children and step children wholly dependent upon him.

- (7) *Head of the Department.*—An officer declared as such by the Corporation.
- (8) *Month.*—A month according to the English calendar.
- (9) *Pay.*—Pay means the amount drawn monthly by a Corporation's servant as (i) basic pay in the grade applicable to the post held by him substantively or in an officiating capacity, and (ii) any other emoluments which may be specially classed as pay by the Corporation.
- (10) *Permanent employee.*—A permanent employee is he who has completed a probationary period and who has been confirmed as a regular member of the staff.
- (11) *Salary.*—Salary includes basic pay, special pay and any other allowances, but does not include any compensatory allowance, fixed travelling allowance, conveyance and daily allowances.
- (12) *Temporary employee.*—A Temporary employee is one whose services have been engaged for a limited period or for work of a temporary nature.

### CHAPTER III—RECRUITMENT AND APPOINTMENTS

7. The establishment strength including both the number and designation of posts in the various categories and grades shall be determined by the Corporation from time to time. Temporary additions to the number of posts may be made by such officers as may be authorised by the Corporation in this behalf.

8. Appointments to various posts shall be made by promotion or direct recruitment in accordance with such conditions as the Corporation may determine from time to time.

9. Every person appointed to a service or post in the Corporation shall undergo a period of probation for one year which may be extended or relaxed at the discretion of the Chairman.

10. No person shall be appointed to a post without a Medical Certificate from a Medical Officer approved by the Corporation. The Medical Certificate must be annexed to the first salary bill of the person concerned. The form of the certificate is given in Appendix I.

11. An employee of the Corporation is liable to serve or undergo training anywhere in or outside India.

12. Flying crew shall be retained in the service of the Corporation only for so long as they remain medically fit for flying duties.

13. Notwithstanding what has been stated in Rule 3, the services of an employee are terminable at 30 days notice on either side, or pay in lieu.

### CHAPTER IV—PROMOTION AND SENIORITY

14. An employee of the Corporation will be eligible for promotion to the higher grade provided he possesses the requisite educational, technical and other qualifications and is considered fit in all respects for the promotion. Promotions will normally be made on the basis of merit.

15. Vacancies of a short duration will not normally be filled. However, when a vacancy is for a duration exceeding one month and the Head of the Department considers it essential to make officiating arrangements, the individual thus appointed to officiate shall be granted either a charge pay not exceeding 20 per cent. of his substantive basic pay or the difference between his present basic pay and the minimum pay of the grade to which he is appointed, whichever is less. Where the individual's substantive pay is equal to, or greater than the minimum of the new grade, his officiating pay in the new grade will be fixed at a stage next above his pay on the date of the appointment.

### CHAPTER V—SERVICE RECORDS

16. A service book, by numbers, of all employees of the Corporation, whether in permanent or temporary capacity, shall be maintained for each station. This book is to be maintained in the form prescribed in Appendix II.

17. This book is intended to be a complete authorised official record of an employee from the time he joins service till his discharge or retirement. Every entry in this book shall be signed personally by the officer authorised in this behalf by the Chairman.

18. Confidential rolls shall be maintained for every employee and shall contain entries recorded, at the end of each calendar year, by the employee's immediate superior. The form for such roll shall be prescribed by the Corporation.

## CHAPTER VI—PAY AND ALLOWANCES

19. **Pay.**—The scales of pay for various categories of employees shall be as given in Appendix III.

20. **Dearness Allowance.**—All employees shall be eligible for the grant of dearness allowance at the rates shown below:—

Basic Pay				Dearness allowance
	Rs.			Rs.
	Upto 50/-			20
Exceeding	50	but not exceeding	70	25
	70		90	30
	90		112	35
	112		140	40
	140		166	45
	166		192	50
	192		230	55
	230		270	60
	270		320	65
	320		400	70
	400		480	75
	480		575	80
	575		675	85
	675		775	90
	775		875	95
	875		...	100

21. **Place Allowance.**—All employees whose basic pay ranges between Rs. 50/- and Rs. 200/-p.m. shall, when they are stationed at the undermentioned cities, be eligible for an allowance at the rates indicated below:

	Monthly Rate					
Bombay	...	...	...	...	...	16
Calcutta	...	...	...	...	...	8
Delhi	...	...	...	...	...	6

22. **Transport.**—The Corporation shall provide, free of any charge, transport for conveying flying crew on duty between their residence a fixed rallying point and the airport.

23. **Efficiency Bonus.**—Pilots and Radio Officers shall be eligible for the grant of an efficiency bonus at the following rates:—

	Rs. per month						
Senior Captain	...	...	...	...	...	...	200
Captain	...	...	...	...	...	...	150
Junior Captain	...	...	...	...	...	...	100
Flight Navigators	...	...	...	...	...	...	75
First Officer	...	...	...	...	...	...	75
Sr. Radio Officer	...	...	...	...	...	...	100
Radio Officer	...	...	...	...	...	...	50

The grant of the above bonus is subject to the service being certified at the end of each month, by the competent authority, as satisfactory. When the grant of this bonus is withheld, the individual shall have the right of appeal.

23A. **Navigator's Allowance.**—A pilot possessing a second class Navigator's or a Flight Navigator's licence shall be eligible for an allowance at the rate of Rs. 50/- or Rs. 100/-p.m. respectively.

**24. Overtime Allowance.**—Members of the flying crew shall, when required to fly in excess of 80 hours in a month, be eligible for an allowance at the rates given below:

	Rs. per hour
Captain and senior Captain ... ..	10
Senior Flight Navigator and Junior Captain ... ..	9
Senior Flight Engineer, Junior Flight Navigator and First Officer ... ..	7
Junior Flight Engineer ... ..	6
Radio Officer ... ..	5
Air Hostess ... ..	2 8/-
Steward ... ..	2

**25. Chief Pilot's Allowance.**—A Chief Pilot shall be eligible for the grant of an allowance of Rs. 100/- per month.

**26. Chief Check Pilot's Allowance.**—A Chief Check Pilot shall be eligible for the grant of an allowance of Rs. 100/- per month.

**27. Instructor's Allowance.**—An Instructor shall, in addition to his basic pay, be eligible for an allowance at the rate given below for the period for which he is held against, and actually performs the duties of a sanctioned post of appropriate category.

Chief Pilot Instructor ... ..	Rs. 125/- per month.
Pilot Instructor ... ..	Rs. 75/- per month.

**28. Washing Allowance.**—Such employees in Grades 1 to 6 as are supplied with uniforms, shall be eligible for an allowance of Rs. 3/- per mensem, provided the Corporation do not themselves make arrangements for washing their uniforms or having them washed.

**29. Foreign Allowance.**—The India based personnel when posted to foreign stations shall be eligible for the following allowances:—

Station	Basic pay not exceeding	Foreign allowance per month.
1	2	3
	Rs.	Rs.
Karachi ... ..	150	100
Lahore ... ..	300	150
Dacca ... ..	500	200
Chittagong ... ..	750	250
	1,000	300
Basic pay exceeding ... ..	1,250	350
Rangoon ... ..	150	125
Kabul ... ..	300	175
Kandahar ... ..	500	225
	750	275
	1,000	325
Basic pay exceeding ... ..	1,250	375
		Kathmandu
		Pokra
		Rs.
Nepal ... ..	150	50
	300	75
	500	100
	750	125
	1,000	150
Basic pay exceeding ... ..	1,250	175
Colombo ... ..	150	100
	300	125
	500	150
	750	175
	1,000	200
Basic pay exceeding ... ..	1,250	225

**30. Regulations of Pay and Allowances.**—The salary of an employee is payable from the date from which he takes charge of the post or service to which he is appointed. If the charge is before 12.0 O'clock, the salary shall be admissible from the same day; if at 12.0 O'clock or thereafter, it shall be payable from the following day.



**31. Initial pay on appointment.**—A new entrant on first appointment to a post on a time scale of pay shall draw the minimum pay of the scale prescribed for the post unless the Corporation issue special orders regarding the fixation of his initial pay at a higher stage. In cases of promotion, if his substantive pay is equal to, or higher than, the minimum pay of the new time scale of pay, his pay shall be fixed at the stage just above that which he is already drawing. (Example—An employee whose pay is Rs. 230/- in the time scale of Rs. 100-10-250, when promoted to a time scale of Rs. 220-25-400 will have his salary fixed at Rs. 250/- in the new time scale of pay).

**32. Increment.**—An employee is entitled to draw an increment after completing a year's satisfactory and approved service, unless it is expressly stated by the competent authority that the increment will be withheld for reasons specified in writing. In the event of the restoration of the increment so withheld at a later date, the competent authority shall indicate, in writing, whether the increment should be granted from the date on which it originally fell due or from a subsequent date.

#### CHAPTER VII—TRAVELLING AND DAILY ALLOWANCES

**33. Travelling allowance** is given to an employee to cover the out-of-pocket expenses which he actually incurs on travelling on Corporation's duty. It is a fundamental principle that this allowance is not to be a source of profit.

**34. Duty Journeys** are of two kinds, (a) journeys on temporary duty (tour) and (b) journeys on transfer.

**35. The class of rail accommodation** to which an employee, when required to travel by rail, is eligible will be as shown below:

	Railway Class
Grades 14 and above	First Class *(Whenever available)
Grades 10, 11, 11A, 12A, 12B and 13A	Second Class
Grades 3, 4, 5, 6 and 7	Inter Class

\* If there is no first class, employees whose basic pay exceeds Rs. 1500/- will be entitled to travel in air-conditioned compartment whenever available.

**36. Temporary Duty (Tour).**—Travelling allowance on tour is admissible as under:—

(a) *By Rail.*—Single fare of the class of accommodation to which his grade entitles him.

(b) *By Road.*—Mileage allowance for the distance actually travelled (outside a radius of 5 miles from the place of work) at the appropriate rate (See Rule 44).

(c) *By Air.*—When an individual is required to travel by air, free passage shall be provided by the Corporation.

(d) *Daily Allowance.*—For the period of absence from his headquarter's station at the rate applicable to his grade (See Rule 41).

(e) Full daily allowance will be admissible for each day of absence from his head-quarter's station, part of the day being treated as full day for this purpose.

**37. Temporary Transfer.**—When an employee is required to work at an outstation and his absence from his headquarters is not likely to exceed three months, he shall be granted travelling expenses as per Rule 36(a), (b) or (c). In addition, he shall be eligible for daily allowance, at the rates laid down in Rule 41 for the actual period of stay at the outstation, subject to a total period of three months.

**38. Permanent Transfer.**—An employee on permanent transfer shall travel by air, rail or road as required and shall be eligible for the allowances as indicated below:

(a) *By Air.*—Free air passages for the employee and his family plus the cost of two rail fares of the appropriate class of accommodation.

(b) *By Rail.*—Three rail fares for self and one for wife, of the class of accommodation to which the employee's grade entitles him, from the old to the new station; plus one rail fare, of the class for each dependent child over 12 years old and half for each dependent child whose age is between 3 and 12.

**NOTE.**—All journeys by rail shall be performed by the class to which the employee is entitled. In special circumstances he may be allowed to travel by a lower class at the discretion of the Chairman.

(c) *By Road.*—Two road mileages at the rate applicable to the employee. (See Rule 44) for self, plus an additional mileage for two members of his family. If the number of family members exceeds two, the number of additional mileage admissible shall be two only.

(d) *Conveyance of personal (household) effects.*—Every employee, whether he travels by air, rail or road will be reimbursed the actual expenses incurred on transporting his personal effects from the old to the new station. The amount of such expenses shall,

however, be limited to the cost of carriage, by goods trains, of the personal effects upto the following maxima:—

	If having a family (maunds)	Not having a family (maunds)
Grades 14 and above ...	60	40
Grades 10, 11, 11A, 12A, 12B and 13A ...	30	20
Grades 3, 4, 5, 6 and 7 ...	15	12

In addition to the above, an employee shall be reimbursed the cost of transporting by goods train, one motor-car or one motor cycle from the old to the new station.

(e) *Joining Time*.—An employee on permanent transfer from one station to another will be eligible for joining time as indicated below:—

Six days for preparation, but where a journey is performed by rail or road, in addition to the aforesaid 6 days, one day for each 250 miles or fraction thereof.

NOTE (1).—A Sunday does not count as a day for purposes of calculating the time allowed for preparation.

NOTE (2).—A holiday counts as a day for the purposes of the above rules.

(f) *'Settling in' Allowance*.—An employee on permanent transfer from one station to another shall be eligible for a 'settling-in' allowance which will be equal to 30 days daily allowance at the rate applicable to him.

39. For the transportation of personal effects by road, an employee may draw, within the maundage limits prescribed in the preceding rule, mileage allowance at a rate to be determined from time to time.

40. An employee when submitting his claim for travelling allowances shall furnish (i) a certificate to the effect that the journey by rail was performed by the class of rail accommodation for which the claim is made, and (ii) cash memo of other vouchers in support of the amount claimed for the carriage of personal (household) effects, etc.

41. *Daily Allowance*.—The rates of daily allowance in India for employees of different categories are as under:—

Commander i.e., Senior Captains and Captains ...	Rs. 16 per diem.
Chief Flight Navigator ...	Rs. 16 per diem.
Junior Captains and First Officers ...	Rs. 14 per diem.
Chief Radio Officers ...	Rs. 14 per diem.
Radio Officers selection grade ...	Rs. 14 per diem.
Senior Flight Navigator ...	Rs. 14 per diem.
Flight Navigators ...	Rs. 14 per diem.
Second Officers ...	Rs. 10 per diem.
Senior Radio Officers ...	Rs. 10 per diem.
Radio Officers ...	Rs. 10 per diem.
Air Hostesses (all) ...	Rs. 7 per diem.
Stewards (all) ...	Rs. 5/8 per diem.

42. At Calcutta, Bombay and Delhi the daily allowance shall be 100 per cent. more and at Srinagar, Madras, Bangalore and such other stations as may be notified from time to time it shall be 50 per cent. more than the above rate.

43. *Rates of Daily Allowance in countries outside India*.—The rates of daily allowance applicable to countries outside India are as given below:—

Name of Countries	Basic Pay exceeding Rs. 750	Basic Pay exceeding Rs. 250 but not exceeding Rs. 750	Basic Pay upto Rs. 250
1. European Countries ...	£ 4	£ 3	£ 2.10 sh.
2. Hongkong ...	\$60 (HK)	\$ 45 (HK)	\$ 30 (HK)
3. Ceylon ...	Rs. 35 (ic)	Rs. 30	Rs. 25
4. Pakistan ...	Pak. Rs. 30	Pak. Rs. 25	Pak Rs. 15
5. Nepal ...	Rs. 30	Rs. 20	Rs. 10
6. Burma ...	Rs. 55	Rs. 40	Rs. 25
7. Afghanistan ...	Rs. 25	Rs. 20	Rs. 15
8. Indonesia ...	Rupiah 75/-	Rupiah 60/-	Rupiah 40/-
9. Siam ...	Ticcols 240	Ticcols 200	Ticcols 160

NOTE:—Unless otherwise specified the rates are in Indian Currency.

**44. Mileage Allowance for Journeys by Road.**—For journeys by road, mileage allowance is admissible at the following rates for each mile travelled:—

	Rate per mile
An employee drawing a basic pay exceeding Rs. 750 ...	... 0 8 0 (As. eight)
An employee drawing a basic pay exceeding Rs. 200 but not exceeding Rs. 750 ...	... 0 6 0 (As. six)
An employee drawing a basic pay up to Rs. 200 ...	... 0 4 0 (As. four)

#### CHAPTER VIII—LEAVE

**45. Casual Leave.**—An employee will be eligible for casual leave to the extent of 10 days in a calendar year either for private affairs or on grounds of sickness. This leave shall not be accumulated nor shall it be combined with any other kind of leave.

**46. Privilege Leave.**—30 days for every 11 months of service and cumulative up to 90 days on full pay and allowances, *i.e.*, Basic Pay, Efficiency Bonus, Dearness Allowance, Navigators Allowance and Place Allowance, where admissible.

**47. Sick Leave.**—An employee will be eligible for the grant of 21 days sick leave in a calendar year. This leave will be on full pay and allowances, as defined in Rule 46, and is not cumulative. When sick leave is required for a period exceeding two days at a time, the request for such leave must be supported by a certificate from the Medical Officer approved by the Corporation.

**48. Accident and Disability Leave.**—An employee sustaining an injury caused by an accident arising out of and in the course of his employment, or suffering illness (i) during and in consequence of the due performance of the normal duties assigned to him, or (ii) in the performance of any particular duty which has the effect of increasing his liability to illness beyond the ordinary risk attending to normal duties assigned to him, may, on production of a medical certificate in the prescribed form, be granted leave for such period on full or half pay as the Chairman may decide. The grant of this leave is subject to the condition that the accident or illness is not due to the employee's negligence or default.

**49. Study Leave.**—May be granted to an employee by the Corporation at its discretion on the merits of each case, on such terms and conditions as it may deem necessary.

**50. Quarantine Leave.**—An employee may, on a quarantine certificate issued by a medical authority approved by the Chairman, be granted leave of absence from duty for a period not exceeding 30 days.

**51. General conditions regarding all kinds of Leave.**—(i) No kind of leave can be claimed as of right. The authority empowered to grant leave has the discretion to refuse or revoke leave according to the exigencies of the Corporation's business.

(ii) All leave shall be applied for in writing addressed to the appropriate authority within the time prescribed by the relevant rule.

(iii) Sundays or holidays may not be prefixed or affixed to any type of leave except with the prior permission of the appropriate authority. When so allowed they shall not be counted as part of the leave.

(iv) A Sunday or holiday falling between the first and the last days of any leave period shall count as part of the leave.

(v) If leave is refused, postponed, or revoked, the reasons therefor shall be communicated to the employee concerned.

(vi) All leave at the credit of an employee shall lapse on the date of retirement or termination of service. Provided, however, that in cases of privilege leave admissible and applied for, in writing, well ahead of the date of retirement, and refused in writing by the competent authority in the interest of the Corporation, an employee may be granted, from the date of retirement, the amount of privilege leave so refused.

#### CHAPTER IX—COMPENSATION

**52.** The Corporation shall pay compensation in the undermentioned circumstances and at the rates indicated below. Such compensation is payable only when the death or an injury is caused by an accident during or as a result of air journey performed as a member of the flying crew in the Corporation's service.

**A. Flying Accidents.****(i) Death resulting from air journey on duty.**

Flying personnel	Rs.
Senior Captain (basic salary exceeding Rs. 1250) ... ..	45,000
Captain and Sr. Flight Navigator (basic salary exceeding Rs. 1050) ... ..	40,000
Jr. Captain and Flight Navigator (basic salary not exceeding Rs. 1050) ... ..	35,000
First Officer and Sr. Flight Engineer (basic salary exceeding Rs. 650) ... ..	30,000
First Officer and Flight Engineer (basic salary not exceeding Rs. 650) ... ..	25,000
Sr. Radio Officer and Probationary Flight Navigator ... ..	25,000
Probationary First Officer, Probationary Flight Engineer and Radio Officer	20,000
Air Hostess and Steward ... ..	15,000
Probationary Radio Officer, Probationary Air Hostess and Probationary Steward ... ..	10,000

**(ii) Total permanent disablement—120% of the corresponding death compensation.****(iii) Partial permanent disablement—separate rules will be issued later.**

The Corporation shall, at its own expense provide all reasonable medical aid or bear expenses thereof for an injury suffered by an employee in the due performance of his duties and not arising out of his negligence or default.

**B. For loss of luggage or personal effects of flying personnel.**

The Corporation may indemnify the Crew and the Steward or Air Hostess against loss or damage that may be caused, at stopping points, to their personal effects carried with them on their flying duty journeys. The amount of compensation which is payable only if the loss or damage is not due to or attributable to the fault or negligence of the Crew Steward/Air Hostess shall not exceed Rs. 250/- per individual.

**CHAPTER X—MEDICAL FACILITIES**

53. The Corporation shall prescribe from time to time the medical facilities to be afforded to the employees.

**CHAPTER XI—FREE AND CONCESSIONAL AIR PASSAGES**

54. One free return air passage within India shall be granted annually to every employee of the Corporation subject to spare capacity being available.

55. In addition, an employee shall be granted, subject to spare capacity being available, not more than three concessional return passages within India, per year at 25 per cent. of the scheduled fare.

56. The above passages will be transferable to the employee's wife and/or wholly dependent children.

**CHAPTER XII—UNIFORMS**

57. The Corporation shall provide uniforms free of charge to such of the employees as may be declared to be entitled by the Corporation from time to time. The scale of the uniforms shall be such as may be determined by the Corporation from time to time.

**CHAPTER XIII—DISCIPLINE AND APPEALS**

58. The Corporation may from time to time issue standing orders governing the conduct of the employees. A breach of these orders will amount to misconduct.

59. Every employee shall have the right to appeal, within such time and in accordance with such terms as may be prescribed by the Corporation, against an order of punishment or penalty passed against him, to a competent authority except where the order has been passed by the Corporation themselves.

**CHAPTER XIV**

60. A permanent employee shall contribute towards the Contributory Provident Fund a minimum of 8-1/3 per cent. and a maximum of 18 per cent. of his Basic Pay, plus Efficiency Bonus. The Corporation's contribution to the fund shall, however, be limited to 8-1/3 per cent. of his Basic Pay, plus Efficiency Bonus.

61. The Corporation's contribution to the fund is payable to the employee after five years of approved service. Subject to this and the other rules to be made hereafter in this behalf, all the accumulated balance at the credit of an employee on the day he ceases to be an employee of the Corporation, is payable to him or his nominee or nominees or executors.

## INDIAN LABOUR CODE

## APPENDIX I—(See Rule 10)

*Form of Medical Certificate*

I.....do hereby certify that I have examined Shri.....  
 a candidate for the employment in the ..... department of the Indian  
 Airlines Corporation, and cannot discover that he/she has any disease, constitutional affec-  
 tion or bodily infirmity, except.....I do not consider this a disqualification  
 for employment in the Indian Airlines Corporation. Shri.....'s age  
 according to his/her own statement is.....years and, by appearance, about  
 .....years.

(Name with designation of the Medical Officer).

## APPENDIX II—(See Rule 16)

*Personal Record and Record of Service*

## Part I—Personal Record

Name.  
 Father's Name.  
 Qualification.  
 Language.  
 Date of birth.  
 Place of birth.  
 Nationality.  
 Religion.  
 Identification marks.  
 Date of first appointment.  
 Date of confirmation.  
 Particulars of appointment.

## Part II—Record of Service

Date	Occurrence	Remarks	Signature

## APPENDIX III—(See Rule 19)

*Grade Salary Classification for Flying Crews*

Grade 1	Pay Scale 2	Designation 3
3	70—4—122	FLIGHT STEWARDS.
4	100—6—172	"
5	140—8—220	"
6	190—10—300	"
7	220—12—340	Senior Flight Steward.
10	250—15—370	AIR HOSTESS.
11	320—15—440	Senior Air Hostesses.
11A	320—20—440	RADIO OFFICERS.
12B	440—30—650	Senior Radio Officer; Flight Engineer.
14	750—50—1050	Selection Grade for Sr. Radio Officer.
12A	400 Fixed.	SECOND OFFICERS.
13A	550—40—750	First Officers/Senior Flight Engineer.
14	750—50—1050	Junior Captains.
		Flight Navigator.
15	1050—50—1250	Captain/Sr. Flight Navigators.
16	1250—60—1550	Senior Captains.

NOTE 1.—A Chief Air Hostess, a Chief Flight Engineer and a Chief Flight Navigator shall be eligible for an additional pay of Rs. 100 p.m.

NOTE 2.—A Chief Radio Officer shall be eligible for an additional pay of Rs. 75 p.m.

## **(b) SERVICE RULES FOR THE AIRCRAFT ENGINEERING DEPARTMENT**

### **Arrangement of Paragraphs**

#### **CHAPTER I—GENERAL**

1. Short title.
2. Purposes.
3. Enforcement.
4. Corporation's right.
5. Final interpretation by Corporation.

#### **CHAPTER II—DEFINITIONS**

6. Definitions.

#### **CHAPTER III—RECRUITMENT AND APPOINTMENTS**

7. Establishment strength.
8. Appointments.
9. Probationary period.
10. Medical Certificate.
11. Training.
12. Retiring age.
13. Termination of service.

#### **CHAPTER IV—PROMOTION AND SENIORITY**

14. Promotion.
15. Officiating pay.

#### **CHAPTER V—SERVICE RECORDS**

16. Service Book.
17. Authorised official record.
18. Confidential Rolls.

#### **CHAPTER VI—PAY AND ALLOWANCES**

19. Pay.
20. Dearness Allowance.
21. Place Allowance.
22. Transport (Conveyance) Allowance.
23. Condition for payment of transport allowance.
24. Allowance for A.M.E. Licenses.
25. Allowance for Engineering Personnel.
26. Overtime Allowance.
27. Instructor's Allowance.
28. Washing Allowance.
29. Foreign Allowance.
30. Regulations of pay and allowances.
31. Initial pay on appointment.
32. Increment.

#### **CHAPTER VII—TRAVELLING AND DAILY ALLOWANCES**

33. Actual expenses.
34. Duty journeys.
35. Class of rail accommodation.
36. Temporary Duty (Tour).
37. Temporary Transfer.
38. Permanent Transfer.
39. Mileage Allowance.
40. Claim for Travelling Allowances.
41. Daily Allowance.
42. Increase of Daily Allowance.
43. Rates of Daily Allowance in countries outside India.
44. Mileage Allowance for journey by road.

#### **CHAPTER VIII—LEAVE**

45. Casual Leave.
46. Privilege Leave.
47. Sick Leave.
48. Accident and Disability Leave.

49. Adjustment of compensation or benefit.
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## CHAPTER IX—COMPENSATION

53. Rates and Conditions of Compensation.
54. Additional Insurance.
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## CHAPTER X—MEDICAL FACILITIES

56. Medical Facilities.

## CHAPTER XI—FREE AND CONCESSIONAL AIR PASSAGES

57. Free Return Air Passage.
58. Concessional Return Passages.
59. Passage transferable to wife and dependent children.

## CHAPTER XII—UNIFORMS

60. Supply of Free Uniforms.

## CHAPTER XIII—DISCIPLINE AND APPEALS

61. Issue of Standing Orders.
62. Right to appeal.

## CHAPTER XIV—HOLIDAYS

63. Festival Holidays.
64. Holiday in lieu of work on Sunday.

## CHAPTER XV—RETIREMENT BENEFITS

65. Contribution to Provident Fund.
  66. Payment of accumulated balance.
- APPENDICES.

## (b) SERVICE RULES FOR THE AIRCRAFT ENGINEERING DEPARTMENT

## CHAPTER I—GENERAL

1. These rules shall be known as the Indian Airlines Corporation (Aircraft Engineering Department) Service Rules.
2. They are intended to define conditions of service, recruitment, promotion, discipline, control and appeal, pay and allowances (including travelling and other allowances), leave and retirement benefits.
3. These rules shall come into force with effect from the 1st of January, 1955, and shall apply to all personnel of the Aircraft Engineering Department mentioned in Appendix III, in the whole-time employment of the Indian Airlines Corporation, and to those under contract agreement to the extent not otherwise specified in the contract.
4. The Corporation reserve to themselves the right to modify, cancel, or amend all or any of these rules, or any supplementary rules issued in connection with these rules, without previous notice of their intention and the right to give effect thereto immediately from the time or date of issue.
5. The Corporation reserve to themselves the right of interpreting finally the meaning of these rules in case of dispute.

## CHAPTER II

6. Unless there be something repugnant in the subject or context, the terms defined in this Chapter are used in these rules in the sense here explained:—

(1) *Chairman*.—Chairman of the Corporation.

(2) *Compensatory allowance*.—Compensatory allowance means an allowance granted to meet expenditure necessitated by the special circumstances in which duty is performed *viz.*, dearness allowance, place allowance, transport allowance, foreign allowance, etc.

- (3) *Competent authority*.—In relation to the exercise of any power, the Chairman of the Corporation, or any other authority to which the power is delegated by him.
- (4) *Corporation*.—The Indian Airlines Corporation constituted under the Air Corporations Act, 1953 (No. 27 of 1953).
- (5) *Employee*.—A person in the whole-time service of the Corporation.
- (6) *Family*.—Includes the employee's wife (one only), legitimate children and step children wholly dependent upon him.
- (7) *Head of the Department*.—An officer declared as such by the Corporation.
- (8) *Month*.—A month according to the English calendar.
- (9) *Pay*.—Pay means the amount drawn monthly by a Corporation's servant as (i) basic pay in the grade applicable to the post held by him substantively or in an officiating capacity, and (ii) any other emoluments which may be specially classed as pay by the Corporation.
- (10) *Permanent Employee*.—A permanent employee is he who has completed a probationary period and who has been confirmed as a regular member of the staff.
- (11) *Salary*.—Salary includes basic pay, special pay and other allowances but does not include any compensatory allowance, fixed travelling allowance, conveyance and daily allowances.
- (12) *Temporary employee*.—A temporary employee is one whose services have been engaged for a limited period or for work of a temporary nature.

#### CHAPTER III—RECRUITMENT AND APPOINTMENTS

7. The establishment strength including both the number and designation of posts in the various categories and grades shall be determined by the Corporation from time to time. Temporary additions to the number of posts may be made by such officers as may be authorised by the Corporation in this behalf.
8. Appointments to various posts shall be made by promotion or direct recruitment in accordance with such conditions as the Corporation may determine from time to time.
9. Every person appointed to a service or post in the Corporation shall undergo a period of probation for one year which may be extended or relaxed at the discretion of the Chairman.
10. No person shall be appointed to a post without a Medical Certificate from a Medical Officer approved by the Corporation. The Medical Certificate must be annexed to the first salary bill of the person concerned. The form of the certificate is given in Appendix I.
11. An employee of the Corporation is liable to serve or undergo training, anywhere in or outside India.
12. An employee shall retire from the service of the Corporation on attaining the age of 55 years.
13. Notwithstanding what has been stated in Rule 3, the services of an employee are terminable at 30 days notice on either side or pay in lieu.

#### CHAPTER IV—PROMOTION AND SENIORITY

14. An employee of the Corporation will be eligible for promotion to the higher grade provided he possesses the requisite educational, technical, and other qualifications and is considered fit in all respects for the promotion. Promotions will normally be made on the basis of merit.
15. Vacancies of a short duration will not normally be filled. However, where a vacancy is for a duration exceeding one month and the Head of the Department considers it essential to make officiating arrangements, the individual thus appointed to officiate shall be granted either a charge pay not exceeding 20 per cent. of his substantive basic pay or the difference between his present basic pay and the minimum pay of the grade to which he is appointed, whichever is less. Where the individual's substantive pay is equal to, or greater than the minimum of the new grade, his officiating pay in the new grade will be fixed at a stage next above his pay on the date of the appointment.

#### CHAPTER V—SERVICE RECORDS

16. A service book, by numbers, of all employees of the Corporation, whether in permanent or temporary capacity, shall be maintained for each station. This book is to be maintained in the form prescribed in Appendix II.



17. This book is intended to be a complete authorised official record of an employee from the time he joins service till his discharge or retirement. Every entry in this book shall be signed personally by the officer authorised in this behalf by the Chairman.

18. Confidential rolls shall be maintained for every employee and shall contain entries recorded, at the end of each calendar year, by the employee's immediate superior. The form for such roll shall be prescribed by the Corporation.

#### CHAPTER VI—PAY AND ALLOWANCES

19. **Pay.**—The scales of pay for various categories of employees shall be as given in Appendix III.

20. **Dearness Allowance.**—All employees shall be eligible for the grant of dearness allowance at the rates shown below:—

Basic Pay		Dearness Allowance.
Rs.		Rs.
Upto 50/-		20
Exceeding	but not exceeding	
50	70	25
70	90	30
90	112	35
112	140	40
140	166	45
166	192	50
192	230	55
230	270	60
270	320	65
320	400	70
400	480	75
480	575	80
575	675	85
675	775	90
775	875	95
875	...	100

21. **Place Allowance.**—All employees whose basic pay ranges between Rs. 50/- and Rs. 200/- p.m. shall, when they are stationed at the undermentioned cities, be eligible for an allowance at the rates indicated below:—

	Monthly Rate
Bombay	Rs. 16
Calcutta	Rs. 8.
Delhi	Rs. 6.

22. **Transport (Conveyance) Allowance.**—An employee working at an airport may be granted a Transport (Conveyance) Allowance at the rates given below subject to the condition that he resides at a distance exceeding 3 miles from the airport and is not provided with free transport by the Corporation:—

Grades 1 to 6	Rs. 10	per mensem.
Grades 7, 8, and 9	Rs. 25	per mensem.
Grades 10, 11 and 12	Rs. 40	per mensem.
Grades 13 and 14	Rs. 50	per mensem.
Grades 15 and 16	Rs. 75	per mensem.
Grades 17 and above	Rs. 100	per mensem.

23. The payment of this allowance to employees in Grade 10 and above shall be subject to the further conditions that a transport is actually maintained and is certified to be essential for the efficient performance of duty.

24. **Allowance for A.M.E. Licences.**—Engineering personnel upto Grade 9 shall be entitled to a licence pay of Rs. 30/- per month per category of licence (A, B, C, D or X), provided the endorsement or endorsements cover aircraft, engine or accessories used on Corporation's scheduled services.

**NOTE.**—An 'X' licence valid only for compensation and adjustment of compasses shall not count as a licence for purposes of this rule.

25. Engineering personnel upto Grade 14 shall be eligible for the grant of an allowance of Rs. 5/- per month for every additional type endorsement in each category over and above one basic category, provided the endorsement or endorsements cover aircraft or engine or accessories used on Corporation's scheduled services.

**NOTE.**—An 'X' licence valid only for compensation and adjustment of compasses shall not count as a licence for purposes of this rule.

26. **Overtime Allowance.**—An employee governed by the Factories Act, and others up to Grade 12, shall, when required to work more than 44 hours per week, be eligible for overtime allowance at the rates and on conditions prescribed in the Act.

27. **Instructor's Allowance.**—An instructor shall, in addition to his basic pay, be eligible for an allowance at Rs. 100/- per month for the period for which he is held against, and actually performs the duties of, a sanctioned post of appropriate category.

28. **Washing Allowance.**—Such employees in Grades 1 to 6, as are supplied with uniforms, shall be eligible for an allowance of Rs. 3/- per mensem, provided the Corporation do not themselves make arrangements for washing their uniforms or having them washed.

29. **Foreign Allowance.**—The India based personnel when posted to foreign stations shall be eligible for the following allowances:—

Station (1)	Basic Pay not exceeding (2)	Foreign Allowance per month (3)
	Rs.	Rs.
Karachi .. .. .	150	100
Lahore .. .. .	300	150
Dacca .. .. .	500	200
Chittagong .. .. .	750	250
	1,000	300
Basic pay exceeding .. .. .	1,250	350
Rangoon .. .. .	150	125
Kabul .. .. .	300	175
Kandahar .. .. .	500	225
	750	275
	1,000	325
Basic pay exceeding .. .. .	1,250	375
	Kathamandu	Elsewhere
	Pokra.	
	Rs.	Rs.
Nepal .. .. .	150	50
	300	75
	500	100
	750	125
	1,000	150
Basic pay exceeding .. .. .	1,250	175
Colombo .. .. .	150	100
	300	125
	500	150
	750	175
	1,000	200
Basic pay exceeding .. .. .	1,250	225

30. **Regulations of Pay and Allowances.**—The salary of an employee is payable from the date from which he takes charge of the post or service to which he is appointed. If the charge is before 12.0 O'clock, the salary shall be admissible from the same day; if at 12.0 O'clock or thereafter, it shall be payable from the following day.

31. **Initial pay on appointment.**—A new entrant on first appointment to a post on a time scale of pay shall draw the minimum pay of the scale prescribed for the post, unless the Corporation issue special orders regarding the fixation of his initial pay at a higher stage. In cases of promotion, if his substantive pay is equal to, or higher than,

the minimum pay of the new time scale of pay, his pay shall be fixed at the stage just above that which he is already drawing. (Example—An employee whose pay is Rs. 230/- in the time scale of Rs. 100—10—250, when promoted to a time scale of Rs. 200—25—400 will have his salary fixed at Rs. 250/- in the new time scale of pay).

**32. Increment.**—An employee is entitled to draw an increment after completing a year's satisfactory and approved service, unless it is expressly stated by the competent authority that the increment will be withheld for reasons specified in writing. In the event of the restoration of the increment so withheld at a later date, the competent authority shall indicate, in writing, whether the increment should be granted from the date on which it originally fell due or from a subsequent date.

#### CHAPTER VII—TRAVELLING AND DAILY ALLOWANCES

**33. Travelling Allowance** is given to an employee to cover the out-of-pocket expenses which he actually incurs on travelling on Corporation's duty. It is a fundamental principle that this allowance is not to be a source of profit.

**34. Duty Journeys** are of two kinds, (a) journeys on temporary duties (tour) and (b) journeys on transfer.

**35. The class of rail accommodation** to which an employee, when required to travel by rail, is eligible will be as shown below:

Rs.	Railway Class
Basic pay exceeding Rs. 750	First Class *(Whenever available.)
Basic pay exceeding Rs. 200 but not exceeding Rs. 750	Second Class.
Basic pay exceeding Rs. 100 but not exceeding Rs. 200	Inter Class.
Basic pay up to Rs. 100	Third Class.

\*If there is no first class, an employee drawing a basic pay exceeding Rs. 1,500 p.m. will be entitled to travel in airconditioned compartments whenever available.

**36. Temporary Duty (Tour).**—Travelling allowance on tour is admissible as under:—

- (a) *By Rail.*—Single fare of the class of accommodation to which his grade entitles him.
- (b) *By Road.*—Mileage allowance for the distance actually travelled (outside a radius of 5 miles from the place of work) at the appropriate rate (See Rule 44).
- (c) *By Air.*—When an individual is required to travel by air, free passage shall be provided by the Corporation.
- (a) *Daily Allowance.*—For the period of absence from his headquarter's station at the rate applicable to his grade (see Rule 41).
- (e) Full daily allowance will be admissible for each day of absence from his headquarter's station, part of the day being treated as full day for this purpose.

**37. Temporary Transfer.**—When an employee is required to work at an outstation and his absence from his headquarters is not likely to exceed three months, he shall be granted travelling expenses as per Rule 36 (a), (b) or (c). In addition, he shall be eligible for daily allowance, at the rates laid down in Rule 41, for the actual period of stay at the outstation, subject to a total period of three months.

**38. Permanent Transfer.**—An employee on permanent transfer shall travel by air, rail or road as required and shall be eligible for the allowances indicated below:

- (a) *By Air.*—Free Air Passages for the employee and his family plus the cost of two rail fares of the appropriate class of accommodation.
- (b) *By Rail.*—Three rail fares for self, and one for wife, of the class of accommodation to which the employee's grade entitles him, from the old to the new station; plus one rail fare, of the class for each dependent child over 12 years old and half for each dependent child whose age is between 3 and 12.

**NOTE.**—All journeys by rail shall be performed by the class to which the employee is entitled. In special circumstances he may be allowed to travel by a lower class at the discretion of the Chairman.

- (c) *By Road.*—Two road mileages at the rate applicable to the employee (See rule 44) for self plus an additional mileage for two members of his family. If

the number of family members exceeds two, the number of additional mileage admissible shall be two only.

- (d) *Conveyance of personal (household) effects.*—Every employee whether he travels by air, rail or road, will be reimbursed the actual expenses incurred on transporting his personal effects from the old to the new station. The amount of such expenses shall, however, be limited to the cost of carriage, by goods train, of the personal effects upto the following maxima:—

	If having a family. (maunds)	Not having a family. (maunds)
Basic pay exceeding Rs. 750	60	40
Basic pay exceeding Rs. 200 but not exceeding Rs. 750	30	20
Basic pay exceeding Rs. 100 but not exceeding Rs. 200	15	12
Basic pay up to Rs. 100	10	5

In addition to the above, an employee shall be reimbursed the cost of transporting by goods train, one motor-car or one motor cycle from the old to the new station.

- (e) *Joining Time.*—An employee on permanent transfer from one station to another will be eligible for joining time as indicated below:—

Six days for preparation, but where a journey is performed by rail or road, in addition to the aforesaid 6 days, one day for each 250 miles or fraction thereof.

NOTE (1).—A Sunday does not count as a day for purposes of calculating the time allowed for preparation.

NOTE (2).—A holiday counts as a day for the purpose of the above rules.

- (f) *'Settling in' Allowance.*—An employee on permanent transfer from one station to another shall be eligible for a 'settling-in' allowance which will be equal to 30 days' daily allowance at the rate applicable to him.

39. For the transportation of personal effects by road, an employee may draw, within the maundage limits prescribed in the preceding rule, mileage allowance at a rate to be determined from time to time.

40. An employee when submitting his claim for travelling allowances shall furnish (i) a certificate to the effect that the journey by rail was performed by the class of rail accommodation for which the claim is made, and (ii) Cash memo or other vouchers in support of the amount claimed for the carriage of personal (household) effects etc.

41. *Daily Allowance.*—The rates of daily allowance in India for employees in different salary ranges are as under:—

Basic Pay Rs.					Rate of Allowance. Rs.
Upto Rs. 100	...	...	...	...	4 0 0 per diem.
Exceeding Rs.	Not exceeding Rs.				
100	400	...	...	...	5 8 0 per diem.
400	600	...	...	...	7 0 0 per diem.
600	800	...	...	...	8 8 0 per diem.
800	1,000	...	...	...	10 0 0 per diem.
1,000	1,500	...	...	...	14 0 0 per diem.
1,500	2,000	...	...	...	16 0 0 per diem.
2,000		...	...	...	20 0 0 per diem.

42. At Calcutta, Bombay and Delhi daily allowance shall be 100 per cent. more and at Srinagar, Madras, Bangalore and such other stations as may be notified from time to time it shall be 50 per cent. more than the above rates.

43. The rates of daily allowance applicable to countries outside India are as given below:—

Names of Countries	Basic Pay exceeding Rs. 750	Basic Pay exceeding Rs. 250 but not exceeding Rs. 750	Basic Pay upto Rs. 250
1. European Countries ..	£ 4	£ 3	£ 2.10 sh.
2. Hongkong ...	\$ 60 (HK)	\$ 45 (HK)	\$ 30 (HK)
3. Ceylon ...	Rs. 35	Rs. 30	Rs. 25
4. Pakistan ...	Pak. Rs. 30	Pak. Rs. 25	Pak. Rs. 15
5. Nepal ...	Rs. 30	Rs. 20	Rs. 10
6. Burma ...	Rs. 55	Rs. 40	Rs. 25
7. Afghanistan ...	Rs. 25	Rs. 20	Rs. 15
8. Indonesia ...	Rupiah 75	Rupiah 60	Rupiah 40
9. Siam ...	Ticcals 240	Ticcals 200	Ticcals 160

NOTE.—Unless otherwise specified, the rates are in Indian Currency.

44. **Mileage Allowance for journeys by road.**—For journeys by road, milcage allowance is admissible at the following rates for each mile travelled:—

	Rs. A. P.
An employee drawing a basic pay exceeding Rs. 750 ...	... 0 8 0 (Annas eight)
An employee drawing a basic pay exceeding Rs. 200 but not exceeding Rs. 750 ...	... 0 6 0 (Annas six)
An employee drawing a basic pay exceeding Rs. 100 but not exceeding Rs. 200 ...	... 0 4 0 (Annas four)
An employee drawing a basic pay up to Rs. 100 ...	... 0 3 0 (Annas three)

#### CHAPTER VIII—LEAVE

45. **Casual Leave.**—An employee will be eligible for casual leave to the extent of 10 days in a calendar year either for private affairs or on grounds of sickness. This leave shall not be accumulated nor shall it be combined with any other kind of leave. Normally not more than 3 days casual leave will be granted at a time in two consecutive months.

46. **Privilege Leave.**—30 days for every 11 months of service and cumulative up to 90 days on full pay and allowances, *i.e.*, basic pay, dearness allowance, license pay and place allowance, where admissible

47. **Sick Leave.**—An employee will be eligible for 20 days sick leave on half pay for each completed year of service. This leave may be accumulated upto 90 days on half pay, or be commuted to 15 days on full pay. For purposes of this rule pay shall comprise of basic pay, dearness allowance, and place allowance, where admissible. Sick leave for a period exceeding two days shall be supported by a medical certificate by the Medical Officer approved by the Corporation. The grant of full or half pay shall be subject to adjustment of benefits under the National Health Insurance Scheme, where applicable.

48. **Accident and Disability Leave.**—An employee sustaining an injury caused by an accident arising out of and in the course of his employment, or suffering illness (i) during and in consequence of the due performance of the normal duties assigned to him, or (ii) in the performance of any particular duty which has the effect of increasing his liability to illness beyond the ordinary risk attending to normal duties assigned to him, may, on production of a medical certificate in the prescribed form, be granted leave for such period on full or half pay as the Chairman may decide. The grant of this leave is subject to the condition that the accident or illness is not due to the employee's negligence or default.

49. In the case of an employee who is governed by the Workmen's Compensation Act and/or the National Health Insurance Scheme, the pay and allowances paid to him during such leave shall be subject to adjustment of any compensation or benefit admissible under the aforesaid Act and/or Scheme.

50. **Study Leave.**—May be granted to an employee by the Corporation at its discretion on the merits of each case, on such terms and conditions as it may deem necessary.

51. **Quarantine Leave.**—An employee may, on a quarantine certificate issued by a medical authority approved by the Chairman, be granted leave of absence from duty for a period not exceeding 30 days.

52. **General conditions regarding all kinds of leave.**—(i) No kind of leave can be claimed as of right. The authority empowered to grant leave has the discretion to refuse or revoke leave according to the exigencies of the Corporation's business.

(ii) All leave shall be applied for in writing addressed to the appropriate authority within the time prescribed by the relevant rule.

(iii) Sundays or holidays may not be prefixed or affixed to any type of leave except with the prior permission of the appropriate authority. When so allowed they shall not be counted as part of the leave.

(iv) A Sunday or holiday falling between the first and the last days of any leave period shall count as part of the leave.

(v) If leave is refused, postponed, or revoked, the reasons therefor shall be communicated to the employee concerned.

(vi) All leave at the credit of an employee shall lapse on the date of retirement or termination of service. Provided, however, that in cases of privilege leave admissible and applied for, in writing, well ahead of the date of retirement, and refused in writing by the competent authority in the interest of the Corporation, an employee may be granted, from the date of retirement, the amount of privilege leave so refused.

#### CHAPTER IX—COMPENSATION

53. The Corporation shall pay compensation in the undermentioned circumstances and at the rates indicated below. Such compensation is payable only when the death or an injury is caused by an accident during or as a result of air journey performed on duty.

(i) Death resulting from air journey on duty

	Rs				Rs.
Monthly basic salary up to	70	...	...	...	3,500
Exceeding 70 & not exceeding	150	...	...	...	6,000
Exceeding 150 & not exceeding	250	...	...	...	8,000
Exceeding 250 & not exceeding	400	..	..	...	10,000
Exceeding 400 & not exceeding	600	..	...	...	12,000
Exceeding 600 & not exceeding	800	..	...	...	14,000
Exceeding 800 & not exceeding	1,000	...	...	...	16,000
Exceeding 1,000 & not exceeding	1,500	..	...	...	18,000
Exceeding 1,500	...	...	..	...	20,000

(ii) Total permanent disablement—120 per cent. of the corresponding death compensation.

(iii) Partial permanent disablement—separate rules will be issued later

54. Engineer personnel not forming part of the flying crew shall be eligible for such additional insurance as may be decided upon by the Corporation when on test flights and in cases where an aircraft has not been given the certificate of safety.

55. The Corporation shall, at its own expense provide all reasonable medical aid or bear expenses thereof for an injury suffered by an employee in the due performance of his duties and not arising out of his negligence or default.

#### CHAPTER X—MEDICAL FACILITIES

56. The Corporation shall prescribe from time to time the medical facilities to be afforded to the employees.

#### CHAPTER XI—FREE AND CONCESSIONAL AIR PASSAGES

57. One free return air passage within India shall be granted annually to every employee of the Corporation subject to spare capacity being available.

58. In addition an employee shall be granted, subject to spare capacity being available, not more than three concessional return passages within India, per year at 25 per cent. of the scheduled fare.

59. The above passages will be transferable to the employee's wife and/or wholly dependent children.

#### CHAPTER XII—UNIFORMS

60. The Corporation shall provide uniforms free of charge to such of the employees as may be declared to be entitled by the Corporation from time to time. The scale of the uniforms shall be such as may be determined by the Corporation from time to time.

#### CHAPTER XIII—DISCIPLINE AND APPEALS

61. The Corporation may from time to time issue standing orders governing the conduct of their employees. A breach of these orders will amount to misconduct.

62. Every employee shall have the right to appeal, within such time and in accordance with such terms as may be prescribed by the Corporation, against an order or punishment or penalty passed against him, to a competent authority except where the order has been passed by the Corporation themselves.

#### CHAPTER XIV—HOLIDAYS

63. The number of festival holidays allowed in a year to Corporation's employees shall not exceed 15, including the three national holidays namely Republic Day, Independence Day, and Mahatma Gandhi's Birthday. A list of holidays to be allowed in each case will be published before the beginning of each calendar year.

64. An employee required to work on a Sunday or holiday may be given a substitute day off.

#### CHAPTER XV—RETIREMENT BENEFITS

65. A permanent employee shall contribute towards the Contributory Provident Fund, a minimum of 8-1/3% and a maximum of 18% of his basic pay and licence pay. The Corporation's contribution to the Fund shall, however, be limited to 8-1/3% of his basic pay and licence pay.

66. The Corporation's contribution to the fund is payable to the employee after five years of approved service. Subject to this and the other rules to be made hereafter in this behalf, all the accumulated balance to the credit of an employee on the day he ceases to be an employee of the Corporation, is payable to him or his nominee or nominees or executors.

#### APPENDIX I—(See Rule 10)

##### *Form of Medical Certificate*

I..... do hereby certify that I have examined Shri ....., a candidate for employment in the ..... department of the Indian Airlines Corporation, and cannot discover that he/she has any disease, constitutional affection, or bodily infirmity, except ..... I do not consider this a disqualification for employment in the Indian Airlines Corporation. Shri ..... 's age according to his/her own statement is ..... years and, by appearance, about ..... years.

(Name with designation of the Medical Officer).

#### APPENDIX II—(See Rule 16)

##### *Personal Record and Record of Service*

##### Part I—Personal Record

Name.  
 Father's name.  
 Qualifications.  
 Language.  
 Date of birth.  
 Place of birth.  
 Nationality.  
 Religion.  
 Identification marks.  
 Date of first appointment.  
 Date of confirmation.  
 Particulars of appointment.

## Part II—Record of Service.

Date	Occurrence	Remarks	Signature

## APPENDIX III—(See Rule 19)

*Engineering Department*

Grade 1	Pay Scale 2	Designation 3
1	50—2—80	Cleaner.
2	60—3—90.	Improver.
3	70—4—122.	Mechanic III.
4	100—6—172.	Mechanic II.
5	140—8—220.	Mechanic I.
6	190—10—300.	Master Mechanic.
		Leading Hand.
7	220—12—340.	Examiner Senior Leading Hand.
		Aircraft Maintenance Engineer V.
8	260—15—450.	Charge Hand.
9	340—15—550.	Senior Examiner.
		Foreman.
10	250—15—370.	Aircraft Maintenance Engineer IV.
		Junior Inspector.
11	320—15—440.	Do.
12	400—15—550.	Do.
13	550—25—750.	Aircraft Maintenance Engineer III.
		Inspector.
14	750—50—1050.	Aircraft Maintenance Engineer II.
15	1050—50—1250.	Aircraft Maintenance Engineer I.
		Shift Engineer.
		Asstt. Superintendent.
		Chief Inspector.
16	1250—60—1550.	Works Manager.
		Supdt. Maintenance Overhaul.
		Chief Inspector.
17	1550—75—1850.	Dy. Chief Engineer.
18	1850—75—2000.	Senior Dy. Chief Engineer.
19	2000—125—2250.	Chief Engineer/Engineering Manager.

## (C) SERVICE RULES FOR EMPLOYEES OTHER THAN THE FLYING CREW AND AIRCRAFT ENGINEERING DEPARTMENT

## Arrangement of Paragraphs

## CHAPTER I—GENERAL

1. Short Title.
2. Purposes.
3. Enforcement.
4. Corporation's rights.
5. Final interpretation by Corporation.

## CHAPTER II—DEFINITIONS

6. Definitions.

## CHAPTER III—RECRUITMENT AND APPOINTMENTS

7. Establishment strength.
8. Appointments.



- 9. Probationary period.
- 10. Medical Certificate.
- 11. Training.
- 12. Retiring age.
- 13. Termination of service.

#### CHAPTER IV—PROMOTION AND SENIORITY

- 14. Promotion.
- 15. Officiating pay.

#### CHAPTER V—SERVICE RECORDS

- 16. Service Book.
- 17. Authorised Official Record.
- 18. Confidential Rolls.

#### CHAPTER VI—PAY AND ALLOWANCES

- 19. Pay.
- 20. Dearness Allowance.
- 21. Place Allowance.
- 22. Transport (Conveyance) Allowance.
- 23. Conditions for payment of transport allowance.
- 24. Overtime Allowance.
- 25. Instructor's Allowance.
- 26. Washing Allowance.
- 27. Foreign Allowance.
- 28. Machine Allowance.
- 29. Non-practising allowance.
- 30. Regulations of pay and allowance.
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- 32. Increment.

#### CHAPTER VII—TRAVELLING AND DAILY ALLOWANCES

- 33. Actual Expenses.
- 34. Duty Journeys.
- 35. Class of rail accommodation.
- 36. Temporary Duty (Tour).
- 37. Temporary Transfer.
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- 39. Mileage Allowance.
- 40. Claim for travelling allowances.
- 41. Daily Allowance.
- 42. Increase of daily allowance.
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- 44. Mileage Allowance for journeys by road.

#### CHAPTER VIII—LEAVE

- 45. Casual Leave.
- 46. Privilege Leave.
- 47. Sick Leave.
- 48. Accident and Disability Leave.
- 49. Adjustment of compensation or benefit admissible.
- 50. Study Leave.
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- 52. Maternity Leave.
- 53. General conditions regarding all kinds of leave.

#### CHAPTER IX—COMPENSATION

- 54. Rates and Conditions of Compensation.
- 55. Medical Aid.

#### CHAPTER X—MEDICAL FACILITIES

- 56. Medical Facilities.

#### CHAPTER XI—FREE AND CONCESSIONAL AIR PASSAGES

- 57. Free Return Air Passage.
- 58. Concessional Return Passages.
- 59. Passages transferable to wife and dependent children.

CHAPTER XII—UNIFORMS

60. Supply of free uniforms.

CHAPTER XIII—DISCIPLINE AND APPEALS

61. Issue of Standing Orders.  
62. Right to Appeal.

CHAPTER XIV—HOLIDAYS

63. Festival Holidays.  
64. Holiday in lieu of Sunday Work.

CHAPTER XV—RETIREMENT BENEFITS

65. Contribution to Provident Fund.  
66. Payment of accumulated balance.  
APPENDICES.

(C) SERVICE RULES FOR EMPLOYEES OTHER THAN THE FLYING CREW AND AIRCRAFT ENGINEERING DEPARTMENT

CHAPTER I—GENERAL

1. These rules shall be known as the Indian Airlines Corporation (Employees other than the Flying Crew and the Aircraft Engineering Department) Service Rules.

2. They are intended to define conditions of service, recruitments, promotion, discipline, control and appeal, pay and allowance (including travelling and other allowances), leave and retirement benefits.

3. These rules shall come into force with effect from the 1st January, 1955, and shall apply to all personnel mentioned in Appendix III of the undermentioned departments, in the whole-time employment of the Indian Airlines Corporation, and to those under contract agreement to the extent not otherwise specified in the contract.

- (i) Traffic.
- (ii) Accounts, Audit and Statistics.
- (iii) Stores and Supplies.
- (iv) Personnel and Miscellaneous Service Administration.
- (v) Ground Operations, including Training, and
- (vi) Flying Operations Department other than the Flying Crew.

4. The Corporation reserve to themselves the right to modify, cancel, or amend all or any of these rules, or any supplementary rules issued in connection with these rules, without previous notice of their intention, and the right to give effect thereto immediately from the time or date of issue.

5. The Corporation reserve to themselves the right of interpreting finally the meaning of these rules in case of dispute.

CHAPTER II

6. Unless there be something repugnant in the subject or context, the terms defined in this Chapter are used in these rules in the sense here explained:—

- (1) *Chairman*.—Chairman of the Corporation.
- (2) *Compensatory Allowance*.—Compensatory allowance means an allowance granted to meet expenditure necessitated by the special circumstances in which duty is performed, viz., dearness allowance, place allowance, transport allowance, foreign allowance, etc.;
- (3) *Competent Authority*.—In relation to the exercise of any power, the Chairman of the Corporation or any other authority to which the power is delegated by him.
- (4) *Corporation*.—The Indian Airlines Corporation constituted under the Air Corporations Act, 1953, (No. 27 of 1953).
- (5) *Employee*.—A person in the whole-time service of the Corporation.
- (6) *Family*.—Includes the employee's wife (one only), legitimate children and step-children and wholly dependent upon him.
- (7) *Head of the Department*.—An officer declared as such by the Corporation.

- (8) *Month*.—A month according to the English calendar.
- (9) *Pay*.—Pay means the amount drawn monthly by a Corporation's servant as  
(i) basic pay in the grade applicable to the post held by him substantively or in an officiating capacity, and (ii) any other emoluments which may be specially classed as pay by the Corporation.
- (10) *Permanent employee*.—A permanent employee is he who has completed a probationary period and who has been confirmed as a regular member of the staff.
- (11) *Salary*.—Salary includes basic pay, special pay and any other allowances, but does not include any compensatory allowance, fixed travelling allowance, conveyance and daily allowances.
- (12) *Temporary employee*.—A temporary employee is one whose services have been engaged for a limited period or for work of a temporary nature.

#### CHAPTER III—RECRUITMENT AND APPOINTMENTS

7. The establishment strength including both the number and designation of posts in the various categories and grades shall be determined by the Corporation from time to time. Temporary additions to the number of posts may be made by such officers as may be authorised by the Corporation in this behalf.

8. Appointments to various posts shall be made by promotion or direct recruitment in accordance with such conditions as the Corporation may determine from time to time.

9. Every person appointed to a service or post in the Corporation shall undergo a period of probation for one year which may be extended or relaxed at the discretion of the Chairman.

10. No person shall be appointed to a post without a medical certificate from a Medical Officer approved by the Corporation. The medical certificate must be annexed to the first salary bill of the person concerned. The form of the certificate is given in Appendix I.

11. An employee of the Corporation is liable to serve or undergo training anywhere in or outside India.

12. An employee shall retire from the service of the Corporation on attaining the age of 55 years.

13. Notwithstanding what has been stated in Rule 3, the services of an employee are terminable at 30 days notice on either side, or pay in lieu.

#### CHAPTER IV—PROMOTION AND SENIORITY

14. An employee of the Corporation will be eligible for promotion to the higher grade provided he possesses the requisite educational, technical and other qualifications and is considered fit in all respects for the promotion. Promotions will normally be made on the basis of merit.

15. Vacancies of a short duration will not normally be filled. However, when a vacancy is for a duration exceeding one month and the Head of the Department considers it essential to make officiating arrangements, the individual thus appointed to officiate shall be granted either a charge pay not exceeding 20 per cent. of his substantive basic pay or the difference between his present basic pay and the minimum pay of the grade to which he is appointed, whichever is less. Where the individual's substantive pay is equal to, or greater than the minimum of the new grade, his officiating pay in the new grade will be fixed at a stage next above his pay on the date of the appointment.

#### CHAPTER V—SERVICE RECORDS

16. A service book, by numbers, of all employees of the Corporation, whether in permanent or temporary capacity, shall be maintained for each station. This book is to be maintained in the form prescribed in Appendix II.

17. This book is intended to be a complete authorised official record of an employee from the time he joins service till his discharge or retirement. Every entry in this book shall be signed personally by the officer authorised in this behalf by the Chairman.

18. Confidential rolls shall be maintained for every employee and shall contain entries recorded, at the end of each calendar year, by the employee's immediate superior. The form for such roll shall be prescribed by the Corporation.

#### CHAPTER VI—PAY AND ALLOWANCES

19. *Pay*.—The scales of pay for various categories of employees shall be as given in Appendix III.

20. **Dearness Allowance.**—All employees shall be eligible for the grant of dearness allowance at the rates shown below:—

Basic Pay		Dearness Allowance
Rs.		Rs.
Upto 50/-		20
Exceeding	but not exceeding	
50	70	25
70	90	30
90	112	35
112	140	40
140	166	45
166	192	50
192	230	55
230	270	60
270	320	65
320	400	70
400	480	75
480	575	80
575	675	85
675	775	90
775	875	95
875	...	100

21. **Place Allowance.**—All employees whose basic pay ranges between Rs. 50/- and Re. 200/- p.m. shall, when they are stationed at the undermentioned cities, be eligible for an allowance at the rates indicated below:—

						Monthly Rate
						Rs.
Bombay	...	...	...	...	...	16
Calcutta	...	...	...	...	...	8
Delhi	...	...	...	...	...	6

22. **Transport (Conveyance) Allowance.**—An employee working at an airport may be granted a Transport (Conveyance) Allowance at the rates given below subject to the condition that he resides at a distance exceeding 3 miles from the airport and is not provided with free transport by the Corporation:—

					Rs.
Grades 1 to 6	...	...	...	...	10 per mensem.
Grades 7, 8 and 9	...	...	...	...	25 per mensem.
Grades 10, 11 and 12	...	...	...	...	40 per mensem.
Grades 13 and 14	...	...	...	...	50 per mensem.
Grades 15 and 16	...	...	...	...	65 per mensem.
Grades 17 and above	...	...	...	...	100 per mensem.

23. The payment of this allowance to employees in Grade 10 and above shall be subject to the further conditions that a transport is actually maintained and is certified to be essential for the efficient performance of duty.

24. **Overtime Allowance.**—An employee governed by the Factories Act shall, when required to work more than 44 hours per week, be eligible for overtime allowance at the rates and on conditions prescribed in that Act.

25. **Instructor's Allowance.**—An instructor shall, in addition to his basic pay, be eligible for an allowance at Rs. 100/- per month for the period for which he is held against, and actually performs the duties of, a sanctioned post of appropriate category.

26. **Washing Allowance.**—Such employees in Grades 1 to 6, as are supplied with uniforms, shall be eligible for an allowance of Rs. 3/- per mensem, provided the Corporation do not themselves make arrangements for washing their uniforms, or having them washed.

**27. Foreign Allowance.**—The India based personnel when posted to foreign stations shall be eligible for the following allowances:—

Station (1)	Basic Pay not exceeding (2)				Foreign allow- ance per month (3)
				Rs.	Rs.
Karachi ... ..				150	100
Lahore ... ..				300	150
Dacca ... ..				500	200
Chittagong ... ..				750	250
				1,000	300
Basic pay exceeding ... ..				1,250	350
Rangoon ... ..				150	125
Kabul ... ..				300	175
Kandahar ... ..				500	225
				750	275
				1,000	325
Basic pay exceeding ... ..				1,250	375
				Kathmandu	
				Pokra	Elsewhere.
Nepal ... ..				50	25
				300	40
				500	55
				750	70
				1,000	85
Basic pay exceeding ... ..				1,250	100
Colombo ... ..				150	
				300	
				500	
				750	
				1,000	
Basic pay exceeding ... ..				1,250	

**28. Machine Allowance.**—A Computer, Key puncher, or Adrema operator shall be eligible for the grant of an allowance at the rate of Rs. 15/- per month.

**29. Non-Practising Allowance.**—A Medical Officer who is a whole-time employee of the Corporation and is not allowed private practice will be eligible for the grant of a non-practising allowance at the rate of 25% of his basic pay.

**30. Regulations of pay and allowance.**—The salary of an employee is payable from the date from which he takes charge of the post or service to which he is appointed. If the charge is before 12.0 O'Clock, the salary shall be admissible from the same day, if at 12.0 O'Clock or thereafter, it shall be payable from the following day.

**31. Initial pay on appointment.**—A new entrant on first appointment to a post on a time scale of pay shall draw the minimum pay of the scale prescribed for the post, unless the Corporation issue special orders regarding the fixation of his initial pay at a higher stage. In cases of promotion, if his substantive pay is equal to, or higher than, the minimum pay of the new time scale of pay, his pay shall be fixed at the stage just above that which he is already drawing. (Example—An employee whose pay is Rs. 230/- in the time scale of Rs. 100—10—250, when promoted to a time scale of Rs. 200—25—400 will have his salary fixed at Rs. 250/- in the new time scale of pay).

**32. Increment.**—An employee is entitled to draw an increment after completing a year's satisfactory and approved service, unless it is expressly stated by the competent authority that the increment will be withheld for reasons specified in writing. In the event of the restoration of the increment so withheld at a later date, the competent authority shall indicate, in writing whether the increment should be granted from the date on which it originally fell due or from a subsequent date.

#### CHAPTER VII—TRAVELLING AND DAILY ALLOWANCES

**33. Travelling allowance** is given to an employee to cover the out-of-pocket expenses which he actually incurs on travelling on Corporation's duty. It is a fundamental principle that this allowance is not to be a source of profit.

34. Duty Journeys are of two kinds, (a) journeys on temporary duty (tour) and (b) journeys on transfer.

35. The class of rail accommodation to which an employee, when required to travel by rail is eligible will be as shown below:—

Rs.		Railway Class
Basic pay exceeding Rs. 750	...	First Class *(Whenever available)
Basic pay exceeding Rs. 200	...	Second class.
but not exceeding Rs. 750	...	
Basic pay exceeding Rs. 100	...	Inter Class.
but not exceeding Rs. 200	...	
Basic pay up to Rs. 100	...	Third Class.

\*If there is no first class, an employee drawing a basic pay exceeding Rs. 1,500/- p.m. will be entitled to travel in air-conditioned compartment whenever available.

36. **Temporary Duty (Tour).**—Travelling allowance on tour is admissible as under:—

- (a) *By Rail.*—Single fare of the class of accommodation to which his grade entitles him.
- (b) *By Road.*—Mileage allowance for the distance actually travelled (outside a radius of 5 miles from the place of work) at the appropriate rate (*See Rule 44*).
- (c) *By Air.*—When an individual is required to travel by air, free passage shall be provided by the Corporation.
- (d) *Daily Allowance.*—For the period of absence from his headquarter's station at the rate applicable to his grade (*See Rule 41*).
- (e) Full daily allowance will be admissible for each day of absence from his head-quarter's station, part of the day being treated as full day for this purpose.

37. **Temporary Transfer.**—When an employee is required to work at an outstation and his absence from his headquarters is not likely to exceed three months, he shall be granted travelling expenses as per Rule 36 (a), (b) or (c). In addition, he shall be eligible for daily allowance, at the rates laid down in Rule 41, for the actual period of stay at the outstation, subject to a total period of three months.

38. **Permanent Transfer.**—An employee on permanent transfer shall travel by air, rail or road as required and shall be eligible for the allowances as indicated below:—

- (a) *By Air.*—Free air passages for the employee and his family plus the cost of two rail fares of the appropriate class of accommodation.
- (b) *By Rail.*—Three rail fares for self, and one for wife, of the class of accommodation to which the employee's grade entitles him, from the old to the new station; plus one rail fare of the class, for each dependent child over 12 years old and half for each dependent child whose age is between 3 and 12.

NOTE.—All journeys by rail shall be performed by the class to which the employee is entitled. In special circumstances he may be allowed to travel by a lower class at the discretion of the Chairman.

- (c) *By Road.*—Two road mileages at the rate applicable to the employee (*See Rule 44*) for self, plus an additional mileage for two members of his family. If the number of family members exceeds two, the number of additional mileage admissible shall be two only.

- (d) *Conveyance of personal (household) effects.*—Every employee whether he travels by air, rail or road will be reimbursed the actual expenses incurred on transporting his personal effects from the old to the new station. The amount of such expenses shall, however, be limited to the cost of carriage, by goods train, of the personal effects upto the following maxima:—

				If having a family (maunds)	Not having a family (maunds)
Basic pay exceeding Rs. 750	...	...	...	60	40
Basic pay exceeding Rs. 200	...	...	...	30	20
but not exceeding Rs. 750	...	...	...		
Basic pay exceeding Rs. 100	...	...	...	15	12
but not exceeding Rs. 200	...	...	...		
Basic pay upto Rs. 100	...	...	...	10	5

In addition to the above, an employee shall be reimbursed the cost of transporting by goods train, one motor-car or one motor-cycle from the old to the new station.

(e) *Joining Time*.—An employee on permanent transfer from one station to another will be eligible for joining time as indicated below:—

Six days for preparation, but where a journey is performed by rail or road, in addition to the aforesaid 6 days, one day for each 250 miles or fraction thereof.

NOTE (1).—A Sunday does not count as a day for purposes of calculating the time allowed for preparation.

NOTE (2).—A holiday counts as a day for the purposes of the above rules.

(f) *'Settling in' Allowance*.—An employee on permanent transfer from one station to another shall be eligible for a 'settling-in' allowance which will be equal to 30 days daily allowance at the rate applicable to him.

39. For the transportation of personal effects by road, an employee may draw, within the maundage limits prescribed in the preceding rule, mileage allowance at a rate to be determined from time to time.

40. An employee when submitting his claim for travelling allowance shall furnish (i) a certificate to the effect that the journey by rail was performed by the class of rail accommodation for which the claim is made, and (ii) cash memo or other vouchers in support of the amount claimed for the carriage of personal (household) effects, etc.

41. *Daily Allowance*.—The rates of daily allowance in India for employees in different salary ranges are as under:—

Basic Pay Rs.				Rate of allowance Rs.	
Upto Rs. 100	...	...	...	4	0 0 per diem.
Exceeding Rs.	Not exceeding Rs.				
100	400	...	...	5	8 0 per diem.
400	600	...	...	7	0 0 per diem.
600	800	...	...	8	8 0 per diem.
800	1,000	...	...	10	0 0 per diem.
1,000	1,500	...	...	14	0 0 per diem.
1,500	2,000	...	...	16	0 0 per diem.
2,000	...	...	...	20	0 0 per diem.

42. At Calcutta, Bombay and Delhi the daily allowance shall be 100% more and at Srinagar, Madras, Bangalore and such other stations as may be notified from time to time, it shall be 50% more than the above rates.

43. *Rates of Daily Allowance in countries outside India*.—The rates of daily allowance applicable to countries outside India are as given below:—

Names of Countries	Basic Pay exceeding Rs. 750	Basic Pay exceeding Rs. 250 but not exceeding Rs. 750		Basic Pay upto Rs. 250
1. European Countries	£ 4	£ 3		£ 2.10 sh.
2. Hongkong	\$ 60 (HK)	\$ 45 (HK)		\$ 30 (HK)
3. Ceylon	Rs. 35	Rs. 30		Rs. 25
4. Pakistan	Pak. Rs. 30	Pak. Rs. 25		Pak. Rs. 15
5. Nepal	Rs. 30	Rs. 20		Rs. 10
6. Burma	Rs. 55	Rs. 40		Rs. 25
7. Afghanistan	Rs. 25	Rs. 20		Rs. 15
8. Indonesia	Rupiah 75	Rupiah 60		Rupiah 40
9. Siam	Ticcols 240	Ticcols 200		Ticcols 160

NOTE.—Unless otherwise specified, the rates are in Indian currency.

44. *Mileage Allowance for Journeys by Road*.—For journeys by road, mileage allowance is admissible at the following rates for each mile travelled:—

Rate per mile	
Rs. A. P.	
An employee drawing a basic pay exceeding Rs. 750	... 0 8 0 (Annas eight)
An employee drawing a basic pay exceeding Rs. 200 but not exceeding Rs. 750	... 0 6 0 (Annas six)
An employee drawing a basic pay exceeding Rs. 100 but not exceeding Rs. 200	... 0 4 0 (Annas four)
An employee drawing a basic pay upto Rs. 100	... 0 3 0 (Annas three)

CHAPTER VIII—LEAVE

**45. Casual Leave.**—An employee will be eligible for casual leave to the extent of 10 days in a calendar year either for private affairs or on grounds of sickness. This leave shall not be accumulated nor shall it be combined with any other kind of leave. Normally not more than 3 days' casual leave will be granted at a time in two consecutive months.

**46. Privilege Leave.**—30 days for every 11 months of service and cumulative up to 90 days on full pay and allowances, i.e., basic pay, dearness allowance and place allowance, where admissible.

**47. Sick Leave.**—An employee will be eligible for 20 days sick leave on half pay for each completed year of service. This leave may be accumulated up to 90 days on half pay or be commuted to 45 days on full pay. For purposes of this rule, pay shall comprise of basic pay, dearness allowance and place allowance, where admissible. Sick leave for a period exceeding two days shall be supported by a medical certificate by the Medical Officer approved by the Corporation. The grant of full or half pay shall be subject to adjustment of benefits under the National Health Insurance Scheme, where applicable.

**48. Accident and Disability Leave.**—An employee sustaining an injury caused by an accident arising out of and in the course of his employment, or suffering illness (i) during and in consequence of the due performance of the normal duties assigned to him, or (ii) in the performance of any particular duty which has the effect of increasing his liability to illness beyond the ordinary risk attending to normal duties assigned to him, may, on production of a medical certificate in the prescribed form, be granted leave for such period on full or half pay as the Chairman may decide. The grant of this leave is subject to the condition that the accident or illness is not due to the employee's negligence or default.

**49.** In the case of an employee who is governed by the Workmen's Compensation Act and/or the National Health Insurance Scheme, the pay and allowances paid to him during such leave shall be subject to adjustment of any compensation or benefit admissible under the aforesaid Act and/or Scheme.

**50. Study Leave.**—May be granted to an employee by the Corporation at its discretion on the merits of each case, on such terms and conditions as it may deem necessary.

**51. Quarantine Leave.**—An employee may, on a quarantine certificate issued by a medical authority approved by the Chairman, be granted leave of absence from duty for a period not exceeding 30 days

**52. Maternity Leave.**—A competent authority may grant to a female employee maternity leave on full pay for a period which may extend upto the end of three months from the date of its commencement or to the end of six weeks from the date of confinement, whichever is earlier.

**53. General conditions regarding all kinds of leave.**—(i) No kind of leave can be claimed as of right. The authority empowered to grant leave has the discretion to refuse or revoke leave according to the exigencies of the Corporation's business.

(ii) All leave shall be applied for in writing addressed to the appropriate authority within the time prescribed by the relevant rule.

(iii) Sundays or holidays may not be prefixed or affixed to any type of leave except with the prior permission of the appropriate authority. When so allowed they shall not be counted as part of the leave.

(iv) A Sunday or holiday falling between the first and the last days of any leave period shall count as part of the leave.

(v) If leave is refused, postponed, or revoked, the reasons therefor shall be communicated to the employee concerned.

(vi) All leave at the credit of an employee shall lapse on the date of retirement or termination of service. Provided, however, that in case of privilege leave admissible and applied for, in writing, well ahead of the date of retirement, and refused in writing by the competent authority in the interest of the Corporation, an employee may be granted, from the date of retirement, the amount of privilege leave so refused.

CHAPTER IX—COMPENSATION

**54.** The Corporation shall pay compensation in the under-mentioned circumstances and at the rates indicated below. Such compensation is payable only when the death or an injury is caused by an accident during or as a result of air journey performed on duty.



## (i) Death resulting from air journey on duty:

Monthly basic salary up to Rs. 70	...	...	...	...	3,500
Exceeding 70 & not exceeding 150	...	...	...	...	6,000
Exceeding 150 & not exceeding 250	...	...	...	...	8,000
Exceeding 250 & not exceeding 400	...	...	...	...	10,000
Exceeding 400 & not exceeding 600	...	...	...	...	12,000
Exceeding 600 & not exceeding 800	...	...	...	...	14,000
Exceeding 800 & not exceeding 1,000	...	...	...	...	16,000
Exceeding 1,000 & not exceeding 1,500	...	...	...	...	18,000
Exceeding 1,500	...	...	...	...	20,000

(ii) Total permanent disablement—120 per cent. of the corresponding death compensation.

(iii) Partial permanent disablement—separate rules will be issued later.

55. The Corporation shall, at its own expense provide all reasonable medical aid or bear expenses thereof for an injury suffered by an employee in the due performance of his duties and not arising out of his negligence or default.

## CHAPTER X—MEDICAL FACILITIES

56. The Corporation shall prescribe from time to time the medical facilities to be afforded to the employees.

## CHAPTER XI—FREE AND CONCESSIONAL AIR PASSAGES

57. One free return air passage within India shall be granted annually to every employee of the Corporation subject to spare capacity being available.

58. In addition, an employee shall be granted, subject to spare capacity being available, not more than three concessional return passages within India, per year at 25 per cent of the scheduled fare.

59. The above passages will be transferable to the employee's wife and/or wholly dependent children.

## CHAPTER XII—UNIFORMS

60. The Corporation shall provide uniforms, free of charge, to such of the employees as may be declared to be entitled by the Corporation from time to time. The scale of the uniforms shall be such as may be determined by the Corporation from time to time.

## CHAPTER XIII—DISCIPLINE AND APPEALS

61. The Corporation may from time to time issue standing orders governing the conduct of their employees. A breach of these orders will amount to misconduct.

62. Every employee shall have the right to appeal, within such time and in accordance with such terms as may be prescribed by the Corporation, against an order or punishment or penalty passed against him, to a competent authority except where the order has been passed by the Corporation themselves.

## CHAPTER XIV—HOLIDAYS

63. The number of festival holidays allowed in a year to Corporation's employees shall not exceed 15, including the three national holidays, namely, Republic Day, Independence Day and Mahatma Gandhi's Birthday. A list of holidays to be allowed in each case will be published before the beginning of each calendar year.

64. An employee required to work on a Sunday or holiday may be given a substitute day off.

## CHAPTER XV—RETIREMENT BENEFITS

65. A permanent employee shall contribute towards the Contributory Provident Fund a minimum of 8-1/3% and a maximum of 18% of his basic pay. The Corporation's contribution to the Fund shall, however, be limited to 8-1/3 per cent. of his basic pay.

66. The Corporation's contribution to the fund is payable to the employee after five years of approved service. Subject to this and the other rules to be made hereafter in this behalf, all the accumulated balance to the credit of an employee on the day he ceases to be an employee of the Corporation, is payable to him or his nominee or nominees or, executors.

APPENDIX I—(See rule 10)

*Form of Medical Certificate*

I..... do hereby certify that I have examined Shri..... a candidate for employment in the ..... department of the Indian Airlines Corporation, and cannot discover that he/she has any disease, constitutional affection, or bodily infirmity, except..... I do not consider this a disqualification for employment in the Indian Airlines Corporation. Shri.....'s age according to his/her own statement is..... years and, by appearance, about.....years.

(Name with designation of the Medical Officer).

APPENDIX II—(See rule 16)

*Personal Record and Record of Service*

Part I—Personal Record.

Name.  
Father's name.  
Qualifications.  
Language.  
Date of birth.  
Place of birth.  
Nationality.  
Religion.  
Identification marks.  
Date of first appointment.  
Date of confirmation.  
Particulars of appointment.

Part II.—Record of Service.

Date	Occurrence	Remarks	Signature

APPENDIX III—(See Rule 19)

Grade 1	Pay Scale 2	Designation 3
<i>(i) Traffic Department</i>		
1	50—2—80 ...	Porter.
2	60—3—90 ...	Head Porter Trainee/Clerical/Traffic.
3	70—4—122 ...	Traffic Clerk.
4	100—6—172 ...	Sr. Traffic Clerk.
5	140—8—220 ...	Traffic Assistant.
6	190—10—300 ...	Sr. Traffic Assistant.
7	220—12—340 ...	Chief Traffic Assistant.
9	340—15—550 ...	Sr. Chief Traffic Assistant.
10	250—15—370 ...	Traffic Officer.
11	320—15—440 ...	Traffic Officer.
12	400—15—550 ...	Do.
13	550—25—750 ...	Sr. Traffic Officer.
14	750—50—1,050 ...	Asst. Traffic Manager. Traffic Superintendent. Station Manager.
15	1,050—50—1,250 ...	Dy. Traffic Manager. Sr. Traffic Supdt. Sr. Station Manager.
16	1,250—60—1,550 ...	Sr. Dy. Traffic Manager.
17	1,550—75—1,850 ...	Traffic Manager.
18	1,850—75—2,000 ...	Sr. Traffic Manager.
19	2,000—125—2,250 ...	Chief Traffic Manager.

Grade 1	Pay Scale 2			Designation 3
<i>(ii) Accounts, Audit and Statistics Department</i>				
3	70—4—122	...	...	Accounts Clerk. Cash Clerk.
4	100—6—172	...	...	Sr. Accounts Clerk. Sr. Cash Clerk.
5	140—8—220	...	...	Accounts Asstt. Audit Asstt. Statistics Asst. Cashier.
6	190—10—300	...	...	Sr. Accounts Asstt. Sr. Audit Asstt. Sr. Statistics Asstt. Sr. Cashier.
7	220—12—340	...	...	Accounts Supdt. Audit Supdt. Chief Cashier.
9	340—15—550	...	...	Sr. Accounts Supdt. Sr. Audit Supdt.
10	250—15—370	...	...	Accountant, Auditor, Statistician. Cost Accountant.
11	320—15—440	...	...	Do.
12	400—15—550	...	...	Do.
13	550—25—750	...	...	Sr. Accountant. Sr. Auditor. Sr. Statistician. Sr. Cost Accountant.
14	750—50—1,050	...	...	Accounts Officer. Audit Officer. Statistics Officer. Cost Accounts Officer.
15	1,050—50—1,250	...	...	Chief Accounts Officer. Sr. Audit Officer. Sr. Statistics Officer. Sr. Cost Accounts Officer.
16	1,250—60—1,550	...	...	Sr. Chief Accounts Officer. Chief Audit Officer. Chief Statistics Officer. Chief Cost Accounts Officer.
17	1,550—75—1,850	...	...	Dy. Controller of Accounts.
18	1,850—75—2,000	...	...	Sr. Controller of Accounts.
<i>(iii) Stores and Supplies Department</i>				
1	50—2—80	...	...	Cleaner.
2	60—3—90	...	...	Improver.
3	70—4—122	...	...	Purchase/Supplies Clerk. Store holder.
4	100—6—172	...	...	Sr. Purchase/Supplies Clerk. Sr. Store holder.
5	140—8—220	...	...	Purchase/Supplies Asstt. Store Keeper.
6	190—10—300	...	...	Sr. Purchase/Supplies Asstt. Sr. Store Keeper.
7	220—12—340	...	...	Purchase/Stores/Supplies Supdt.
9	340—15—550	...	...	Sr. Purchase/Stores/Supplies Supdt.
10	250—15—370	...	...	Purchase/Stores/Supplies Officer.
11	320—15—440	...	...	Do.
12	400—15—550	...	...	Do.
13	550—25—750	...	...	Sr. Purchase/Stores/Supplies Officer.
15	1,050—50—1,250	...	...	Asstt. Controller of Purchase Stores/Supplies.
16	1,250—60—1,550	...	...	Dy. Controller of Purchase Stores/Supplies.
17	1,550—75—1,850	...	...	Controller of Purchase/Stores/Supplies.

Grade 1	Pay Scale 2	Designation 3
<i>(iv) Personnel and Miscellaneous Services Administration Department</i>		
1	50—2—80	... ... Sweeper. Washerman. Gardener. Peon. Durwan. Chowkidar. Guard. Bearer. Cook.
2	60—3—90	... ... Head of any one in Grade I, Jamadar, Sr. Cook. Daftri. Duplicator. Operator. Routine Clerk. Trainee Clerk. Typist (Trainee). Clerk.
3	70—4—122	... ... Catering Clerk. Typist. Typist-cum-Clerk. Compounder. Dresser-cum-Compounder. Telephone Operator. Driver. Driver-cum-Mechanic. Senior Driver.
4	100—6—172	... ... Senior Clerks. Senior Typists. Senior Compounders. Senior Telephone Operator. Senior Catering Clerk. Head Driver.
5	140—8—220	... ... Office Assistant. Catering Assistant. Library Assistant. Record Assistant. Security Assistant. Medical Assistant. Transport Assistant. Technical Assistant. Stenographers. Receptionist. Chief Telephone Operators.
6	190—10—300	... ... Senior Office Assistant. Senior Library Assistant. Senior Record Assistant. Senior Transport Assistant. Senior Technical Assistant. Senior Stenographers. Senior Security Assistant. Senior Medical Assistant. Senior Catering Assistant. Personnel Assistant.
7	220—12—340	... ... Office Superintendent. Chief Catering Assistant. Librarian. Private Secretary. Confidential Stenographers. Security Superintendent. Garden Superintendent. Transport Superintendent.

Grade 1	Pay Scale 2		Designation 3
9	340—15—550	...	... Senior Office Superintendent. Sr. Chief Catering Assistant. Sr. Private Secretary. Sr. Librarian. Sr. Garden Superintendent. Sr. Security Superintendent. Sr. Transport Superintendent.
10	250—15—370	...	... Personnel Officer. Transport Officer. Security Officer. Medical Officer.
11	320—15—440	...	... Medical Officer.
12	400—15—550	...	... Do.
13	550—25—750	...	... Senior Personnel Officer. Senior Medical Officer. Senior Transport Officer. Chief Security Officer. Public Relations and Publicity Officer.
14	750—50—1,050	...	... Assistant Personnel Manager.
15	1,050—50—1,250	...	... Assistant Secretary, Chief Publicity Officer.
16	1,250—60—1,550	...	... Personnel Manager, Chief Medical Officer

(v) *Ground Operations Department including Training*

2	60—3—90	...	... Trainee (Operations Clerk).
3	70—4—122	...	... Operations Clerk.
4	100—6—172	...	... Sr. Operations Clerk
5	140—8—220	...	... Operations Assistant.
6	190—10—300	...	... Senior Operations Assistant
7	220—12—340	...	... Chief Operations Assistant.
9	340—15—550	...	... Sr. Chief Operations Assistant.
10	250—15—370	...	... Flight Operations Officer/Link Instructor/Ground Instructor.
11	320—15—440	...	... Do.
12	400—15—550	...	... Do.
13	550—25—750	...	... Sr. Flight Operations Officer. Sr. Link Instructor. St. Ground Instructor—Navigator. Instructor.
14	750—50—1,050	...	... Chief Flight Operations Officer/Chief Ground Instructor Officer.
15	1,050—50—1,250	...	... Sr. Chief Flight Operations Officer.

(vi) *Flying Operations (Other than Crew)*

15	1,050—50—1,250	...	... Assistant Operations Manager.
16	1,250—60—1,550	...	... Sr. Asstt. Operations Manager.
17	1,550—75—1,850	...	... Deputy Operations Manager.
18	1,850—75—2,000	...	... Operations Manager.
19	2,000—125—2,250	...	... Chief Operations Manager.

## INDIAN AIRLINES CORPORATION EMPLOYEES RULES OF CONDUCT AND DISCIPLINARY PROCEDURE REGULATIONS, 1955<sup>1</sup>

In exercise of the powers conferred by clauses (b) and (c) of sub-section (2) of Section 45 of the Air Corporations Act, 1953 (27 of 1953), the Indian Airlines Corporation, with the previous approval of the Central Government, hereby notifies the following Regulations, which have come into force from the 1st January, 1955. These Regulations may be called the Indian Airlines Corporation Employees Rules of Conduct and Disciplinary Procedure, 1955.

1. The Corporation expects an employee to conduct himself at all times in a manner which will enhance the credit of the organisation.

2. An employee is a whole-time servant of the Corporation and shall not directly or indirectly, engage in any other business, occupation or employment and shall not accept any fees, emoluments, commission or honoraria whatsoever from any other party.

3. An employee shall not, without the previous sanction of the Corporation, accept directly or indirectly on his behalf or on behalf of any other person or permit any member of his family so to accept any gift, gratuity or reward or any offer of such a gift, gratuity or reward.

4. An employee whether on leave or in active service shall not, without the previous sanction of the Corporation, take part in the promotion, registration or management of any commercial enterprise.

5. An employee shall not, unless specifically empowered by the Corporation in this behalf, communicate directly or indirectly to any outside party including the Press any document or information which has come into his possession or of which he has secured knowledge in the course of his official duties.

6. An employee shall not speculate in investment nor shall he engage in any trade or business or undertake any other employment provided that he may, with the previous sanction of the Corporation, undertake occasionally work of a purely literary or artistic character without detriment to his normal duties.

7. An employee shall avoid habitual indebtedness and shall be liable to discharge on being adjudged or declared insolvent unless he proves that such indebtedness or insolvency is the result of circumstances beyond his control and does not proceed from extravagance or dissipation.

8. An employee who applies to be, or is, adjudged or declared insolvent shall forthwith report the fact to his departmental head.

9. An employee shall not take part in or associate himself with or subscribe in aid of or assist in any way any political or communal organisation.

10. Without prejudice to the generality of the term 'misconduct' it shall be deemed to include the following acts of omission and commission:—

(1) Wilful insubordination or disobedience, whether or not in combination with others, of any lawful and reasonable order of his superior.

(2) Participation in an illegal strike or abetting, inciting, instigating or acting in furtherance thereof.

(3) Wilful slowing down in performance of work, malingering or abetment, or instigation thereof.

(4) Theft, fraud and dishonesty in connection with business or property of the Corporation.

(5) Taking or giving bribes or any illegal gratification.

(6) Absence without leave for more than 8 consecutive days or over-staying the sanctioned leave without sufficient grounds or proper or satisfactory explanation within a week from the date of termination of leave sanctioned.

(7) Late attendance on more than 4 occasions within a month.

(8) Breach of any standing orders or any law or rules applicable to the establishment

(9) Collection without the permission of the Manager or the head of the department of any money within the premises of the establishment except as sanctioned by any law of the land or rules of the Corporation for the time being in force.

(10) Engaging in any business or trade within the premises of the establishment.

<sup>1</sup> These Regulations were published under the Ministry of Communications, Indian Airlines Corporation Notification No. 7-CA(5)/55 dated the 16th April, 1955 in the Gazette of India Extraordinary, 1955, Part I—Section 1, page 161.

- (11) Drunkenness, riotous disorderly or indecent behaviour on the premises of the establishment.
- (12) Neglect of work or negligence or gross negligence of a serious nature.
- (13) Commission of any act subversive of discipline or of good behaviour on the premises of the establishment.
- (14) Breach of any rule or instructions for the maintenance and running of any department or the maintenance of the cleanliness of any portion of the establishment.
- (15) Frequent repetition of any act or omission for which a fine may be imposed under the Payment of Wages Act, 1936.
- (16) Wilful damage to work in process or to any property of the Corporation.
- (17) Interference with any safety devices installed in or about the establishment or any airport or aerodrome.
- (18) Refusal to work on another job or another machine or to show gate passes or identity cards or to be searched.
- (19) Canvassing for union membership or the collection of union dues within the premises of the establishment during working hours except in accordance with any law or with the permission of the Manager or head of the department.
- (20) Holding meetings inside the premises of the establishment without previous permission of the Manager except in accordance with provisions of any law for the time being in force.
- (21) Distribution or exhibition within the boundaries of the establishment of any newspapers, hand bills, pamphlets, or posters without the previous sanction of the Manager.
- (22) Disclosure to any unauthorised person of information relating to the Corporation's business or to defence measures.
- (23) Gambling within the premises of the establishment.
- (24) Smoking within the premises of the establishment, where it is prohibited.
- (25) Sleeping on duty.
- (26) Failure to inform the Medical Officer of Health of his suffering from a notifiable or contagious disease.
- (27) Conviction in any court of law for any criminal offence involving moral turpitude.
- (28) Giving false information regarding name, age, father's name, qualification, ability or previous service and experience at the time of employment.
- (29) Leaving work without permission after clocking in.
- (30) Purchasing properties, machinery, stores, etc., from or selling properties, machinery, stores, etc., to the Corporation without express permission in writing from the Chairman.
- (31) Unauthorised removal or defacement of notices on the Corporation's notice boards.
- (32) Carelessness.
- (33) Laziness and inefficiency.
- (34) Bad time-keeping.
- (35) Quarrelling.
- (36) Extortion.
- (37) Interference with the work of other employees.
- (38) Bad and careless work.
- (39) Conduct in private life prejudicial to the reputation of the Corporation.
- (40) Threatening.
- (41) Sale of tickets for lotteries or raffles.
- (42) Committing nuisance, etc., etc.
- (43) Abetment of or attempt at abetment of any of the above misconducts.
- (44) Insolvency.

#### DISCIPLINE

11. The following penalties may, for good and sufficient reasons, and as hereinafter provided, be imposed upon the employees of the Corporation:—

- (a) Censure.
- (b) Fine as provided in the Payment of Wages Act.
- (c) Withholding of increments or promotions.
- (d) Reduction to a lower grade or to a lower stage in a time-scale.
- (e) Recovery from pay of the whole or part of any pecuniary loss caused to the Corporation by the negligence, default or breach of orders of the employee himself or of another employee for whom he has stood surety.

(f) Suspension.

(g) Removal from the service of the Corporation (with or without retirement benefits).

(h) Dismissal (without retirement benefits).

**Explanation:** The discharge—

(a) of a person appointed on probation, during the period of probation;

(b) of a person appointed otherwise than under contract to hold a temporary appointment, on the expiration of the period of the appointment or earlier.

(c) of a person engaged under contract, in accordance with the terms of his contract, does not amount to removal or dismissal within the meaning of this rule.

12. The power to impose penalties described in Rule 11 shall reside in such officers as may be appointed by the Corporation in that behalf.

13. No punishment of any kind shall be imposed on an employee by an authority lower than that which exercises the power of making the appointment to the category/grade concerned.

14. No order concerning discipline, as defined in Rule 11, shall be passed on an employee (other than an order based on facts which led to his conviction in a court of law), unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded an adequate opportunity of defending himself, provided that an employee may be placed under suspension at any time pending enquiry by an officer duly authorised in that behalf by the Corporation. Such an employee shall, when under suspension, receive such pay and allowances as may be laid down from time to time.

## INDIAN AIRCRAFT ACT, 1934 (XXII OF 1934) (EXTRACTS)

### Arrangement of Sections

1. Short title and extent.
2. Definitions.
5. Power of Central Government to make rules.
11. Penalty for flying so as to cause danger.

## INDIAN AIRCRAFT ACT, 1934 (XXII OF 1934) (EXTRACTS)

*An Act to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft.*

[19th August, 1934.]

Whereas it is expedient to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft: It is hereby enacted as follows:—

1. **Short title and extent.**—(1) This Act may be called the Indian Aircraft Act, 1934.

<sup>1</sup>[(2) It extends to the whole of India<sup>2</sup>\*\*\*\* and applies also—

(a) to citizens of India wherever they may be; and

(b) to, and to the persons on, aircraft registered in India wherever they may be.]

<sup>1</sup> Subs. by the A. O. 1950 for the former sub-section (2).

<sup>2</sup> The words "except the State of Hyderabad" rep. by Act 3 of 1951.



**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context—

(1) "aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons whether fixed or free, airships, kites, gliders and flying machines;

(2) "aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto.

\* \* \* \* \*

**5. Power of Central Government to make rules.**—(1) The Central Government may, by notification in the official Gazette, make rules regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the authorities by which any of the powers conferred by or under this Act are to be exercised;
- (aa) the regulation of air transport services, and the prohibition of the use of aircraft in such services except under the authority of and in accordance with a licence authorizing the establishment of the service;
- (ab) the information to be furnished by an applicant for, or the holder of, a licence authorizing the establishment of an air transport service to such authorities as may be specified in the rule;

\* \* \* \* \*

- (g) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;
- (m) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;
- (n) the issue and maintenance of log-books;
- (o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension or surrender of such licence or certificate, or of any log-book;
- (p) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued or renewed under this Act;
- (q) the recognition for the purposes of this Act of licences and certificates issued elsewhere than in <sup>3</sup>[India] relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft; and
- (r) any matter subsidiary or incidental to the matters referred to in this sub-section.

\* \* \* \* \*

<sup>3</sup> Sub. by Act 24 of 1948 for the words "the Provinces".

11. **Penalty for flying so as to cause danger.**—Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

\* \* \* \* \*

## INDIAN AIRCRAFT RULES, 1937 (EXTRACTS)

### Arrangement of Paragraphs

#### PART I—PRELIMINARY

1. Short title and extent.
3. Definitions and Interpretation.

#### PART II—GENERAL CONDITIONS OF FLYING

6. Licensing of Personnel.

#### PART V—PERSONNEL OF AIRCRAFT

38. Personnel to be carried in flying machines.
  - (1) Private pilot.
  - (2) Public transport or aerial work pilot.
  - (3) Pilot instructor.
  - (4) Navigator.
  - (5) Pilot or other member of crew as Navigator.
  - (7) Radio-Telegraph Operator's Licence.
39. Licensing Authority.
- 39A. Disqualification from holding or obtaining a licence.
40. Signature of licence holder.
41. Proofs of competency.
42. Periods of validity of licences.
- 42A. Pilot not to fly for more than 125 hours during any period of 30 consecutive days.
43. Renewal of licences.
44. Aircraft not registered in India.
45. Validation of foreign licences.
47. Age of applicants.
48. Fees.

## INDIAN AIRCRAFT RULES, 1937 (EXTRACTS)<sup>1</sup>

In exercise of the powers conferred by sections 5 and 7<sup>2</sup> and sub-section (2) of section 8<sup>3</sup> of the Indian Aircraft Act, 1934 (XXII of 1934), and section 4 of the Indian Telegraph Act, 1885 (XIII of 1885), and in supersession of the Indian Aircraft Rules, 1920, with the exception of Part IX thereof, the Central Government is pleased to make the following

<sup>1</sup> These Rules were published under the Department of Industry and Labour Notification No. V—26 dated the 23rd November, 1937.

<sup>2</sup> Section 7 gives power to the Central Government to make rules for investigation of accidents.

<sup>3</sup> Section 8 gives power to the Central Government to make rules regulating all matters incidental or subsidiary to the exercise of this power.

rules, the same having been previously published, as required by section 14 of the former Act, namely:—

#### PART I—PRELIMINARY

1. **Short title and extent.**—(1) These rules may be called the Indian Aircraft Rules, 1937.

(2) They extend to the whole of India and apply also (unless the contrary intention appears)—

(a) to, and to persons on, aircraft registered in India wherever they may be;

(b) to, and to persons on, all aircraft for the time being in or over India;

Provided that in the case of aircraft registered in a country other than India, the regulations of that country relating to registration, licensing of personnel, airworthiness and log books shall apply in place of the provisions contained in Parts IV<sup>4</sup>, V, VI<sup>5</sup> and IX<sup>6</sup> of these Rules.

3. **Definitions and Interpretation.**—(1) In these rules, unless there is anything repugnant in the subject or context—

"Aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheets, vessels, piers and other structures thereon or appertaining thereto.

"Aerodyne" means an aircraft whose support in flight is derived dynamically from the reaction on surfaces in motion relative to the air, and includes all aeroplanes, helicopters, gyroplanes, gliders and kites.

"Aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons whether fixed or free, airships, kites, gliders and flying machines.

"Air transport service" means a service of aircraft for the purpose of effecting public transport of passengers, goods or mails.

"Director-General" means the Director-General of Civil Aviation.

"Flying machine" means a mechanically driven aerodyne, and includes all aeroplanes, helicopters and gyroplanes.

"Personnel" in relation to any aircraft means the person in charge, pilot, navigator, engineer, and all other members of the crew.

"Private aircraft" means all aircraft other than aerial work aircraft or public transport aircraft.

"Public transport" means all carriage of persons or things effected by aircraft for a remuneration of any nature whatsoever, and all carriage of persons or things effected by aircraft without such remuneration if the carriage is effected by an air transport undertaking.

"Public transport aircraft" means an aircraft which effects public transport.

"Scheduled air transport service" means an air transport service between places defined in a time-table or otherwise advertised, whether operating at regular prefixed times or not.

"Take off" includes all the successive positions of an aerodyne from the moment it moves from rest until the moment of starting normal flight.

"To land" is the action under normal conditions of making contact with the ground or a solid platform or water by an aircraft equipped for this purpose.

\* \* \* \* \*

#### PART II—GENERAL CONDITIONS OF FLYING

\* \* \* \* \*

6. **Licensing of personnel.**—Every aircraft shall carry and be operated by the personnel prescribed in Part V of these rules and such personnel shall be licensed in the manner prescribed in that Part:

<sup>4</sup> Part IV deals with Registration and Making of Aircraft.

<sup>5</sup> Part VI deals with Airworthiness.

<sup>6</sup> Part IX deals with Log Books.

Provided that in the case of aircraft not registered in India, such personnel shall be licensed in accordance with the regulations of the State in which the aircraft is registered:

.. Provided further that this rule shall not apply to an aircraft flown by a person under instruction or undergoing tests for the purpose of obtaining or renewing a pilot's licence if—

(a) the aircraft is flown within three miles of a licensed aerodrome or a Government aerodrome,

(b) the aircraft carries no passengers, and

(c) prior notice of the flight and of the purpose of the flight is given to the person in charge of the aerodrome from which the flight is made.

#### PART V—PERSONNEL OF AIRCRAFT

**38. Personnel to be carried in flying machines.**—Subject to the provisions of rule 6, every flying machine registered in India shall comply with such of the following requirements in respect of the personnel which it carries and by which it is operated as are applicable to the class of flying machine to which it belongs:—

(1) *Private pilot.*—Every private flying machine shall be flown by a person holding a Private Pilot's licence ("A" licence) or a Public Transport Pilot's licence ("B" licence) issued in accordance with sub-rules (1) and (3) respectively of rule 41:

Provided that a flying machine, which is carrying a passenger or passengers other than a person licensed to give instruction in flying in accordance with sub-rule (3) of this rule, may not be flown by a person holding only a Private Pilot's licence ("A" licence) unless he has had not less than 25 hours' solo flying experience, has a certificate from a licensed pilot instructor that he is considered sufficiently qualified for the purpose and has previously flown a flying machine of the same type and has satisfactorily completed three landings and three take-offs therein.

(2) *Public transport or aerial work pilot.*—Every public transport or aerial work flying machine shall be flown by a person holding a Public Transport Pilot's licence ("B" licence) issued in accordance with sub-rule (3) of rule 41:

Provided that within India, such flying machine, when flying by day and when not employed on a scheduled air transport service, may be flown by a person holding an "A" licence which has been specially endorsed in accordance with sub-rule (2) of rule 41 ("A-1" licence):

Provided further that a flying machine, the property of or being used by a duly constituted flying club, carrying a member of the club otherwise than for the purpose of instructing such member in flying, shall not, for the purpose of this rule, be deemed to be flown for public transport notwithstanding that payment may be made to the flying club for such carriage, unless payment is made either directly or indirectly to the pilot of the flying machine or the pilot of the flying machine is a paid employee of the flying club in which case the aircraft shall be deemed to be flown for public transport.

(3) *Pilot instructor.*—Every flying machine which is being used for the purpose of giving instruction in piloting shall carry, except when flown solo by a pupil under instruction, a person holding a "B" licence which has been specially endorsed for instructional purposes in accordance with sub-rule (4) of rule 41, and no other person may impart, for a remuneration of any nature whatsoever, instruction in piloting flying machines:

Provided that the holder of a "B" licence which has not been so endorsed may, when acting as assistant to a licensed pilot instructor, impart such instruction but shall in no case authorize a person under instruction to perform his first solo flight nor give instruction in any form of acrobatics.

**Explanation.**—A person acting as assistant to a licensed pilot instructor shall not be deemed to have ceased to be so acting by reason only of the absence of the pilot instructor, if such absence does not exceed seven consecutive days, but where such absence exceeds seven consecutive days, he shall not continue so to act without a written authorization from the Central Government.

(4) *Navigator.*—(a) Every flying machine used for international public transport and having to fly without landing—

(i) by day, more than 100 miles, or

(ii) by night, more than 15 miles,  
shall have on board as navigator a person holding a navigator's licence.

(b) The navigator must hold a first class licence if the flying machine has to fly without landing—

(i) by day more than 600 miles, entirely over the high seas or elsewhere than over recognized routes; or

(ii) by night, more than 600 miles.

(5) *Pilot or other member of crew as Navigator—*

(a) The duties of navigator may be performed by the pilot if he holds a navigator's licence save when the itinerary flown by night does not follow a recognized route:

Provided that when the presence of a navigator holding a first class licence is compulsory the pilot may not perform the duties of such navigator unless a second pilot is on board who can in case of need take charge of the handling of the aircraft.

(b) When there is on board the flying machine a member of the crew, other than the pilot, who holds the necessary navigator's licence, he may perform the duties of a navigator.

(6) In sub-rules (4) and (5) of this rule—

(i) "night" means the period commencing one hour after sunset and terminating one hour before sunrise:

(ii) "flight over the high seas" means a flight in the course of which an aircraft finds itself over the sea at a distance of more than 50 miles from the nearest point of the coast; and

(iii) "recognized route" means a route which has been recognized by the Director-General of Civil Aviation in India as being suitably marked, or adequately provided with wireless facilities, with a view to assist navigation.

(7) *Radio-Telegraph Operator's Licence.*—An aircraft which is required by these rules to carry radio-telegraph apparatus shall carry, in addition to the pilot and whether or not it participates in the international service of public correspondence, a person holding either a first class or a second class radio-telegraph operator's licence issued in accordance with this Part to operate radio-telegraph apparatus on aircraft.

(8) *Radio-Telephone Operator.*—An aircraft which is required by these rules to carry radio-telegraph apparatus and which communicates by radio-telephony, shall carry a person holding a first class radio-telegraph operator's licence:

Provided that an aircraft which carries radio-telephone apparatus and which communicates solely by radio-telephony, may carry, instead of a person holding a first class radio-telegraph operator's licence, a radio-telephone operator licensed in accordance with this Part to operate radio-telephone apparatus on aircraft.

**39. Licensing authority.**—The authority by which the licences referred to in rule 38 may be granted, renewed or varied shall be the Central Government which may withhold the grant or renewal of a licence if for any reason it considers it desirable to do so.

**39A. Disqualification from holding or obtaining a licence.**—(1) Where the licensing authority is satisfied, after giving him an opportunity of being heard, that any person—

(a) is a habitual criminal or is habitually intemperate in the use of alcohol, or is an addict of narcotics, drugs, etc., or

(b) is using, has used or is about to use an aircraft in the commission of a cognizable offence or in contravention of these rules, or

(c) has, by his previous conduct as member of the crew of an aircraft, shown that he is irresponsible or is likely to endanger the safety of the aircraft or any person or thing carried therein, or of other aircraft or of persons or things on the ground,

the licensing authority may, for reasons to be recorded in writing, make an order disqualifying that person for a specified period from holding or obtaining a licence.

(2) Upon the issue of any order under sub-rule (1), the person affected, if he is the holder of a licence, shall forthwith surrender his licence to the licensing authority, if the licence has not already been surrendered, and the licensing authority shall keep it until the disqualification has expired or has been removed.

**40. Signature of licence holder.**—On the issue of a licence to an applicant he shall forthwith sign his name on the licence as the holder thereof with his ordinary signature.

**41. Proofs of competency.**—Applicants for licences shall be required to produce proofs of having the following practical experience and of having passed satisfactorily the following tests and examinations:—

(1) *Private Pilot's Licence* ("A licence").—Flying Experience, Flying Tests, Technical Examination and Medical Examination as laid down in Section A of Schedule II<sup>7</sup>:

Provided that for the purpose of the grant of such licence—

(a) a person who is qualified as a pilot in the R.A.F. or the I.A.F. and who produces evidence to show that he possesses the required flying experience, may be exempted from the flying tests, and on production of a certificate from a Medical Officer of the R.A.F. or the I.A.F. that he is fit for flying duties and is up to the standard required for an "A" licence, from the medical examination also;

(b) a person to whom a licence of a corresponding or higher class has been granted by the competent authority in a contracting State may be exempted from all or any of the flying tests and from subjects (a) and (b) of the technical examination, and may, if he is the holder of a current licence, be exempted from the medical examination;

(c) a licence may be issued for all types of flying machines or endorsed for one or more types only.

(2) *Pilot's licence endorsed for limited transport of goods and passengers within India* ("A-1" licence).—Flying Experience, Flying Tests, Technical Examination and Medical Examination as laid down in Section B of Schedule II:

Provided that for the purpose of the grant of such licence—

(a) a person who is qualified as a pilot in the R.A.F. or the I.A.F. and who produces evidence to show that he possesses the required flying experience, may be exempted from the flying tests and from the technical examination in Elementary Navigation and Elementary Meteorology specified in clause (e) of sub-paragraph (1) of paragraph 3 of Section B of Schedule II; and a certificate from a R.A.F. or I.A.F. Medical Officer that he is fit for full flying duties and is up to the standard required for an "A-1" licence may be accepted in lieu of the medical examination;

(b) the requirements in respect of flying experience may be varied by the Central Government in a case where the flying experience of the applicant is in the opinion of the Central Government substantially the equivalent of the flying experience specified in Section B of Schedule II;

(c) such licence shall be endorsed for such types of flying machine only as the candidate has produced proof of his competence to fly.

(3) *Public Transport Pilot's Licence* ("B" licence).—Flying Experience, Flying Tests, Technical Examination and Medical Examination as laid down in Section C of Schedule II:

Provided that for the purpose of the grant of such licence—

(a) a person who is qualified as a pilot in the R.A.F. or the I.A.F. and who produces evidence to show that he possesses the required flying experience, may be exempted from the flying tests laid down in sub-paragraphs (1) and (2) of paragraph 2 of Section C to Schedule II and from the technical examinations in 'Elementary Navigation' and 'Elementary Meteorology' specified in clauses (d) and (g) of sub-paragraph (1) of paragraph 3 of Section C of Schedule II; and a certificate from a R.A.F. or I.A.F. Medical Officer that he is fit for full flying duties and is up to the standard required for a "B" licence may be accepted in lieu of the medical examination;

(b) a person to whom a licence of a corresponding class has been granted by the competent authority in any one of His Majesty's dominions may be exempted from all or any of the flying tests, and from subjects (a) to (e) and (g) of the technical examination, and may, if he is the holder of a current licence, be exempted from the medical examination;

(c) the requirements in respect of flying experience may be varied by the Central Government in a case where in its opinion the flying experience of the applicant is substantially the equivalent of that specified in Section C of Schedule II;

<sup>7</sup> Schedule II relates to Proof of Competency, Tests and Examinations for the Issue and Renewal of Licences to Aircraft Personnel.

(d) such licence shall be issued for such types of flying machine only as the candidate has produced proof of his competence to fly, provided that for industrial purposes, other than public transport, a licence may be issued for any or all types of flying machines.

(4) *Public Transport Pilot's Licence endorsed for instructional purposes (Pilot Instructor's Licence).*—Flying Experience, Flying Tests, Technical Examination and Medical Examination as laid down in Section D of Schedule II.

(5) *Navigator's Licence, 1st class and 2nd class.*—Flying Experience, Technical Examination and Medical Examination as laid down in Section E of Schedule II:

Provided that, for the purpose of the grant of such licences, a person to whom a licence of a corresponding class has been granted by the competent authority in any one of His Majesty's dominions, may be exempted from the technical examination and may, if he is the holder of a current licence, be exempted from the medical examination.

(6) *Radio-Telegraph Operator's Licences—*

(a) *First Class Licence—*

*Flying Experience and Medical Examination.*—As laid down in Section F of Schedule II.

*Technical qualifications.*—The candidate must be the holder of a first class certificate of competency as a wireless operator issued by the Director-General of Posts and Telegraphs, India, or of such other certificate of proficiency as a wireless operator as may be accepted by the Director-General of Posts and Telegraphs, India, in lieu thereof.

(b) *Second Class Licence—*

*Flying Experience and Medical Examination.*—As laid down in Section F of Schedule II.

*Technical qualifications.*—The candidate must be the holder of a second class certificate of competency as a wireless operator issued by the Director-General of Posts and Telegraphs, India, or of such other certificate of proficiency as a wireless operator as may be accepted by the Director-General of Posts and Telegraphs, India, in lieu thereof.

(c) *Radio Telephone Operator's Licence—*

*Flying Experience and Medical Examination.*—As laid down in Section F of Schedule II.

*Technical qualifications.*—The candidate must be the holder of a certificate of proficiency as radio-telephone operator issued by the Director-General of Posts and Telegraphs, India, which has been specially endorsed for air operations or of such other certificate of proficiency as a radio-telephone operator as may be accepted by the Director-General of Posts and Telegraphs, India, in lieu thereof:

Provided that a candidate for a radio-telegraph operator's licence who has not had the required air experience may be granted a provisional licence for a period not exceeding one year in order to enable him to acquire the necessary air experience.

**42. Periods of validity of licences.**—(1) The licences may be granted, and on each occasion of renewal may be renewed, for any period not exceeding the periods shown below:—

- |   |               |
|---|---------------|
| (a) Pilot's "A" Licence.—Twelve months. |               |
| (b) Pilot's "A-1" Licence.              |               |
| (c) Pilot's "B" Licence.                | } Six months. |
| (d) Pilot Instructor's Licence.         |               |

(e) Navigator's Licence.—Twelve months.

(f) Radio-Telegraph Operator's Licence.—Twenty-four months.

(2) The holder of a licence shall, in any one of the following circumstances, be required to undergo a fresh medical examination, wholly or in part, and to produce a certificate of medical fitness as a condition of the licence remaining valid, namely:—

- (i) in the event of sickness involving incapacity for a period of twenty days or more for the work for which he is licensed; or
- (ii) in the event of an accident occurring otherwise than during the performance of such work and involving the same incapacity; or
- (iii) in the event of an accident occurring during the performance of such work and involving injury.

**42A. Pilot not to fly for more than 125 hours during any period of 30 consecutive days.**—No pilot of a flying machine shall, in his capacity as such pilot, fly for more than 125 hours during any period of 30 consecutive days:

Provided that without prejudice to the provisions of rule 160<sup>8</sup>, the Director-General of Civil Aviation may, subject to such conditions and limitations as he may specify, by order in writing, exempt any such pilot from the provision of this rule.

*Explanation.*—For the purposes of this rule, the flying time of a pilot either as sole pilot or pilot in command of an aircraft will be counted fully and the flying time of a pilot engaged as co-pilot or supernumerary pilot will be counted at 80 per cent. of the flight time.

**43. Renewal of licences.**—Licences may be renewed for the periods specified in rule 42 on production of proof of recent flying experience and after the passing of the medical examination as laid down in Schedule II:

Provided that in the case of a member of the operating crew of an aircraft engaged in public transport or aerial work, who is on duty in a region distant from official medical centres, the medical examination may exceptionally at the discretion of the Central Government be deferred for two consecutive periods of three months each on condition that such member obtains locally in each case and forwards to the Director-General of Civil Aviation in India a favourable medical certificate furnished by a medical practitioner who possesses qualifications entitling him to inclusion in the Medical Register of Great Britain:

Provided further that the holder of any licence may be required before the renewal of the licence to satisfy all or any of the requirements which are applicable on the first grant of a licence of the same class:

Provided further that in the case of a pilot's licence the Central Government may, when renewing the licence, restrict the types of aircraft for which the licence is endorsed to those on which it is satisfied that the holder of the licence has had recent reasonable flying experience

**44. Aircraft not registered in India.**—An aircraft not registered in India shall carry the personnel prescribed by the laws of the State in which it is registered and such personnel shall be licensed in accordance with the laws of the State.

**45. Validation of foreign licences.**—When a licence has been granted by the duly competent authority in any part of His Majesty's dominions outside India or in any foreign State and is for the time being in force the Central Government may, subject to such conditions and limitations and for such periods as it shall think fit, confer on such licence the same validity for the purpose of flying aircraft registered in India as if it had been granted under these rules and a licence so validated shall be subject to the provisions of rule 19<sup>9</sup>.

**47. Age of applicants.**—Licences shall not be granted to applicants who at the time of qualification do not comply with the following conditions:—

(a) An applicant for a Pilot's "A" Licence shall have attained the age of 17 years.

(b) An applicant for a Pilot's "A-1" Licence or for a Pilot "B" Licence shall have attained the age of 19 years and shall not be more than 45 years of age.

(c) An applicant for a Navigator's Licence shall have attained the age of 19 years and shall not be more than 50 years of age.

(d) An applicant for a Radio-Telegraph Operator's Licence shall have attained the age of 19 years:

Provided that, at the discretion of the Central Government, a relaxation may be made as regards the upper age-limit—

(i) in the case of an applicant for a Pilot's "A-1" Licence or for a Pilot's "B" Licence, if before the date of his application he has been in service as pilot of a State flying machine, or

(ii) in the case of an applicant for a navigator's licence, if up to the date of his application he has been in service as an operative member of the crew of an aircraft.

<sup>8</sup> Rule 160 gives general power to the Central Government to exempt, by general or special order in writing, any aircraft or any person, either wholly or partially, from the operation of the Indian Aircraft Rules.

<sup>9</sup> Rule 19 deals with cancellation, suspension or endorsement of licenses and certificates.



49. **Fees.**—(1) The following fees shall be payable in respect of the issue, validation or renewal of licences or the issue of duplicate licences and the tests and examinations laid down in rules 41 to 43:—

	Flying Test.	Official Technical Examination (if required).	OFFICIAL MEDICAL EXAMINATION.			Licence.
			For issue of licence.	For renewal of licence or if required under sub-rule (2) of rule 42.		
		Rs.	Rs.	Rs.		Rs.
Pilot's "A" Licence ... ..	*	5	16	8		5
Pilot's "A-1" Licence ... ..	*	20	32	16		5
Pilot's "B" Licence ... ..	*	30	32	16		5
Pilot Instructor's Licence ... ..	*	10	32	16		5
Navigator's Licence, 1st Class ... ..	...	75	32	16		5
Navigator's Licence, 2nd Class ... ..	...	30	32	16		5
Wireless Operator's Licence ... ..	...	...	16	8		5

(2) An application for any licence or for the renewal or validation of any licence shall be accompanied by a Treasury receipt for the sum necessary to cover all the fees payable, except the fees for the official medical examination and the fees for the official examiner for a flying test if not a Government servant which shall be payable direct to the examiner.

(3) When in any case the licence is not issued or renewed or validated, the Central Government may refund to the applicant such proportion of the sum paid as represents the cost of any examination not carried out or any licence not issued.

\* For all flying tests the candidate shall be required to provide the aircraft and pay all charges incurred thereby, and in addition he shall pay, when an official examiner is carried on board during the flying test, a fee at the rate of Rs. 10 for each hour or part of an hour so flown:

Provided that an applicant for the issue or renewal of a Pilot's "A-1" or Pilot's "B" Licence who is required to undergo some part only of the technical examination shall pay a fee of Rs. 10 in respect of each group of subjects as shown in Schedule II in which he is examined, and an applicant for the variation of such a licence by the addition of a type of aircraft not already endorsed on the licence shall, if required to be examined on that type of aircraft, pay a fee of Rs. 5:

Provided further that in any other case when an applicant is required to undergo some part only of the technical examination, the fee may be reduced by such amounts as the Central Government may think proper in the circumstances of the case.

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# CHILD LABOUR LEGISLATION



## **CHILD LABOUR LEGISLATION**

### **Regulation of Child Labour in India**

The regulation of child labour was first undertaken in India in the year 1881 when the first Indian Factories Act was enacted (XV of 1881) and this regulation was subsequently mentioned in connection with labour legislations in specific industries, viz., factories, plantation, mines, ports, shipping, etc. Independent legislation for child labour was enacted for the first time in 1938 when the Employment of Children Act was passed with a view to check the abuses in connection with employment of children in workshops which are outside the scope of factory legislation.

### **Employment of Children Act, 1938 (XXVI of 1938)**

The Royal Commission on Labour has drawn attention to the serious abuses in connection with the employment of children in workshops to which the Factories Act did not apply. The object of the Employment of Children Act, 1938 (XXVI of 1938) was designed solely to fight the evil of child labour in workshops. The Act raises the minimum age of children employed in the handling of goods on railways and at ports, to 15 years. The Act prohibits the employment of children under the age of 15 years in occupations connected with the transport of passengers, goods or mails, by a railway and in occupations involving the handling of goods within the limits of ports. The infringement is punishable with a fine which may extend to Rs. 500. Although the International Labour Conference accepted Revised Convention concerning Minimum Age (Industry) in 1937, fixing 13 years in the case of India as the minimum age for employment of children in the transport of passengers, goods or mails by rail and the handling of goods at docks, the Act fixed the minimum age of children at 15 years.

### **Employment of Children (Amendment) Act, 1939 (XV of 1939)**

The Act was amended in 1939 with a view to raise the minimum age of children employed in the occupations mentioned in the Schedule to 12 years. The Amending Act prescribes that in addition to the provisions of 1938 Act, no child who has not completed his 12th year, shall be employed in any of the scheduled occupations, viz., bidi-making; carpet-weaving; cement manufacture; cloth printing; dyeing and weaving; manufacture of matches, explosives and fireworks; mica cutting and splitting; shellac manufacture; soap manufacture; tanning and wool cleaning.

### **Factories Act, 1948 (LXIII of 1948)**

The minimum age of 12 years under the Amending Act of 1939 was raised to 14 years for admission of children for employment in workshops engaged in the processes mentioned in the Schedule, under section 119 of the Factories Act, 1948 with effect from 1st of April, 1949.

### **Employment of Children (Amendment) Act, 1951 (XLVIII of 1951)**

The Act was again amended in 1951 to give effect to the provisions of I. L. O. Convention No. 90 relating to night work of young persons which has been ratified by India. The Amending Act prohibits employment of children under 15 years in any occupation connected with transport of passengers, goods or mails by railways or within the limits of any port and further prohibits employment of young persons between 15 and 17 years of age during night in railways and ports.

### **Application**

The Act extends to the whole of India except the State of Jammu and Kashmir.

### Steps by State Governments

The Act empowers the State Governments to add any description of the processes to the Schedule after giving due notice in the official Gazette. The Governments of Madras and Coorg have prohibited the employment of children as cleaners in workshops attached to motor transport companies. The Government of Uttar Pradesh has added the brassware and glass bangle industries to the Schedule by a notification published in the U. P. Government Gazette dated the 4th September, 1948.

### Administration

The Act is administered by the Chief Inspector of Factories in most of the States. The Chief Labour Commissioner (Central) administers the Act in connection with the employment of children in Central undertakings and the Chief Labour Commissioner (Central), Regional Labour Commissioners, Conciliation Officers (Central) and Labour Inspectors (Central) have been notified as Inspectors in respect of railways. The Central Government has appointed the Conciliation Officers (Central) to administer the Act in regard to the ports of Madras, Visakhapatnam, Bombay, Calcutta and Cochin.

### Children (Pledging of Labour) Act, 1933 (II of 1933)

Servile labour was not confined to adults alone and parents or guardians used to secure loans or advances on pledging the labour of their children. The Royal Commission on Labour found evidence of such practices in several industrial centres. The Commission condemned the system of mortgaging the labour of children and recommended the expediency of penalising the giving of advances to secure the labour of children and the execution of bond pledging the labour of persons under 15 years on account of consideration to be void.

The Children (Pledging of Labour) Act, 1933 (II of 1933) is designed to stop the malpractice of pledging the labour of young children by their parents to the employer in lieu of a loan or advance. The Act declares void an agreement, written or oral, to pledge the labour of a child below 15 years by the child's parent or guardian in return for any payment or benefit. However, an agreement made without detriment to a child and not made in consideration of any benefit other than reasonable wages to be paid for the child's services and terminable at not more than a week's notice is not to be deemed to be an illegal agreement. A person who knowingly enters into an agreement with a parent or an employer who knowingly employs a child is liable to a fine up to Rs. 200/-. A parent who knowingly pledges the labour of his child is liable to punishment with a fine not exceeding Rs. 50/-.

The Act is practically a dead letter as nothing is done to enforce it. The pledging of child's labour continues to be as prevalent and passes as unnoticed as before the enactment of this legislation. The Labour Investigation Committee found such cases in bidi workshops in Madras City, Vellore and in Mysore<sup>1</sup>. It is reported to be in existence in some of the bidi factories in Hyderabad and Bangalore<sup>2</sup>.

### Constitutional & Statutory Protection to Child Labour in India

We find that legislative measures have been adopted in India for protection of children and young persons against exploitation under the Factories Act, 1948,

<sup>1</sup> Labour Investigation Committee, Main Report, 1946, p. 65.

<sup>2</sup> Child Labour in India, Ministry of Labour, Labour Bureau, 1954, p. 44.

Mines Act, 1952, Plantation Labour Act, 1951, Tea Districts Emigrant Labour Act, 1932, Indian Ports Act, 1908, Indian Merchant Shipping Act, 1923, Children (Pledging of Labour) Act, 1933 and Employment of Children Act, 1938. The Directive Principles of the State Policy embodied in Article 39 of the Constitution of India has reaffirmed the policy of protection of children against exploitation. Under Article 45 of the Constitution, the State shall endeavour to provide for free and compulsory education for all children until they complete 14 years within a period of 10 years from the commencement of the Constitution, *viz.* from 26th of January, 1950. Article 24 of the Constitution prohibits employment of children below 14 years in any factory, or mine or any other hazardous employment, this being guaranteed under the Fundamental Rights.

### International Protection to Child Labour<sup>3</sup>

The International Labour Conference adopted 14 Conventions and 8 Recommendations relating to children and young persons since its inception in 1919, out of which India has ratified 4 Conventions. The Asian Regional Conference of the I.L.O. is also considering measures for the protection of young workers in Asian countries.

"In adopting the above Conventions and Recommendations, the Conference has directed attention to the fixing of the minimum age of admission to employment of all types raising it progressively to high age level. It has sought to restrict the labour of young persons in occupations that are deemed to be dangerous or prejudicial to their physical, mental or moral development. It has promoted the restriction of night work and provision for rest".<sup>4</sup> Eight Conventions and two Recommendations fix the minimum age for admission to employment in various occupations. Three Conventions and one Recommendation relate to the medical examination of young persons to determine their fitness for employment. Three Conventions and two Recommendations concern night work of young persons. Other Recommendations relate to vocational training and apprenticeship for preparing the young people for employment. Besides these Conventions dealing exclusively with young people, there are many Conventions containing special provisions regarding young people covering hours of work, weekly rest, annual paid holidays, industrial health, safety, etc.

### Apprentices Act, 1850 (XIX of 1850)

The Act provides that a child between 10 and 14 years of age may be bound apprentice by his father or guardian to learn any fit trade, craft or employment for a term not exceeding seven years so that it be not prolonged beyond the time when such child shall be of the full age of twenty one years, or in the case of a female, beyond the time of her marriage. Every contract of apprenticeship shall be in writing setting forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound and what he is to be taught. The contract shall be signed by the person to whom the apprentice is bound and by the apprentice if he is of 14 years or more and shall be deposited in the office of the Chief Magistrate of the place or the district.

The master or his agent has power to chastise the apprentice for misbehaviour. If the master or his agent neglects to provide for the apprentice or to teach him according to contract or is guilty of cruelty or other ill-treatment, the Magistrate may summon him and cancel the contract and impose a fine.

<sup>3</sup> International Standards for Labour, I.L.O. Indian Branch, New Delhi, 1956.

<sup>4</sup> *Ibid*, p. 12.

## **EMPLOYMENT OF CHILDREN ACT, 1938 (XXVI OF 1938)**

### **Statement of Object and Reasons<sup>1</sup>**

The Twenty-third Session of the International Labour Conference adopted a Convention in which a special Article for India was inserted, fixing the minimum age at which children may be employed or may work in the transport of passengers, goods or mails by rail, or in the handling of goods at docks, wharves or quays at 13 years. This Bill provides for prohibiting the employment of children under 15 in occupations connected with the transport of goods, passengers or mails on railway, and for raising the minimum age for handling goods in docks from 12, the age fixed by section 6 (1-A) of the Indian Ports Act, 1908, to 14, the age recommended by the Royal Commission on Labour. A simple procedure enabling employers to safeguard themselves against transgressions of the Act by furnishing themselves with, or requiring candidates for employment to possess, certificates of age, is provided in the Bill.

## **EMPLOYMENT OF CHILDREN (AMENDMENT) ACT, 1951 (XLVIII OF 1951)**

### **Statement of Object and Reasons<sup>2</sup>**

The International Labour Conference at its 31st Session held in 1948 adopted a Convention (No. 90) concerning night work of young persons employed in industry. This Convention, in its application to India, prohibits the employment of young persons during the night in factories, mines, railways and ports. The basic provision in the Convention is that young persons between 15 and 17 years of age should not be employed for a period of at least 12 consecutive hours including an interval of at least seven consecutive hours between 10 P.M. and 7 A.M.

India has ratified the Convention which will come into force in June, 1951. Necessary action to enforce the provisions of the Convention in mines and factories by amending the relevant laws is being taken separately. The only national law regulating the employment of children in railways and ports is the Employment of Children Act, 1938, and the present Bill amends that Act so as to give effect to the provisions of the Convention in respect of railways and ports. This opportunity is also taken to amend the Act with a view to completely prohibit the employment of children below 15 years of age in any occupation in port areas.

## **EMPLOYMENT OF CHILDREN ACT, 1938 (XXVI OF 1938)**

### **Arrangement of Sections**

1. Short title and extent.
2. Definitions.
3. Prohibition of employment of children in certain occupations.
- 3A. Power to amend the Schedule.
- 3B. Notice to Inspector before carrying on work in certain processes.
- 3C. Disputes as to age.
- 3D. Maintenance of register.
- 3E. Display of notice containing Abstract of Sections 3 and 4.
4. Penalty.
5. Procedure relating to offences.
6. Appointment of Inspectors.
7. Power to make rules.
8. Amendment of Section 6, Act XV of 1908 (Repealed.)

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<sup>1</sup> Gazette of India, 1938, Part V, page 284.

<sup>2</sup> Gazette of India, 1951, Part 2—Section 2, page 307.

# EMPLOYMENT OF CHILDREN ACT, 1938 (XXVI OF 1938)<sup>1</sup>

*An Act to regulate <sup>2</sup>[the employment of children in] certain industrial employments.*

[1st December, 1938.]

Whereas it is expedient to regulate <sup>2</sup>[the employment of children in] certain industrial employments;

It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Employment of Children Act, 1938.

(2) It extends to <sup>3</sup>[the whole of India <sup>4</sup>[except the State of Jammu and Kashmir]].

**2. Definitions.**—In this Act—

<sup>5</sup>[(a)] “competent authority”, in respect of a major port, as defined in the Indian Ports Act, 1908 (XV of 1908) <sup>6</sup>[or so declared by or under an Act of Parliament] and in respect of a <sup>7</sup>\* railway, <sup>8</sup>\* \* \* means the Central Government, and in any other case means the <sup>9</sup>[State] Government.

<sup>10</sup> [(b)] “occupier” of a workshop means the person who has ultimate control over the affairs of the workshop;

<sup>11</sup> [(bb)] “port authority” means a body of port commissioners or other authority administering a port;]

(c) “prescribed” means prescribed by rules made under this Act;

(d) “workshop” means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 50 of the Factories Act, 1934 (XXV of 1934) for the time being apply.]

**3. Prohibition of employment of children in certain occupations.**—<sup>12</sup>[(1)] No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation—

(a) connected with the transport of passengers, goods or mails by railway, or

(b) connected with a port authority within the limits of any port.

(2) No child who has completed his fifteenth year but has not completed his seventeenth year shall be employed or permitted to work in any occupation referred

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, p. 284; See also page 832 ante.

The Act has been applied to:—

The Darjeeling district with effect from 1st October, 1939, see Notification No. 301-Com., dated 26th September, 1939, Calcutta Gazette, dated 28th September, 1939.

The Excluded areas in the State of Orissa, by Orissa Government Notification No. 1444-III-C-14/41-Com, dated 16th April, 1941.

<sup>2</sup> Subs. by Act 48 of 1951, s. 2 for “the admission of children to”.

<sup>3</sup> Subs. by the A.O. 1950 for “all the Provinces of India”.

<sup>4</sup> Subs. by Act 3 of 1951 for “except Part B States”.

<sup>5</sup> Ins. by Act 15 of 1939, s. 2 (w.e.f. 1. 10. 1939).

<sup>6</sup> Ins. by the A.O. 1950.

<sup>7</sup> The words “federal” was omitted, *ibid.*

<sup>8</sup> The words “as defined in the Indian Railways Act, 1890” were omitted, *ibid.*

<sup>9</sup> Subs. *ibid.*, for “Provincial”.

<sup>10</sup> Added by Act 15 of 1939, s. 2 (w.e.f. 1.10.1939).

<sup>11</sup> Ins. by Act 48 of 1951, s. 3.

<sup>12</sup> Subs. by s. 4 of Act 48 of 1951 for the former sub-sections (1) and (2).



to in sub-section (1), unless the periods of work of such child for any day are so fixed as to allow an interval of rest for at least twelve consecutive hours which shall include at least such seven consecutive hours between 10 P.M. and 7 A.M. as may be prescribed:

Provided that nothing in this sub-section shall apply to any child referred to herein while employed or permitted to work in such circumstances and in accordance with such conditions as may be prescribed in any occupation aforesaid either as an apprentice or for the purpose of receiving vocational training therein:

Provided further that the competent authority may, where it is of opinion that an emergency has arisen and the public interest so requires, by notification in the official Gazette declare that the provisions of this sub-section shall not be in operation for such period as may be specified in the notification.]

<sup>13</sup>[(3) No child who has not completed his <sup>14</sup>[fourteenth] year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on:

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour or to any school established by, or receiving assistance or recognition from, a <sup>15</sup>[State] Government.]

<sup>16</sup>[3A. Power to amend the Schedule.—The <sup>17</sup>[State] Government after giving, by notification in the official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any description of process to the Schedule, and thereupon the Schedule shall have force in the <sup>18</sup>[State] as if it has been enacted accordingly.

**3B. Notice to Inspector before carrying on work in certain processes.—**Before work in any of the processes set forth in the Schedule is carried on in any workshop after the 1st day of October, 1939, the occupier shall send to the Inspector, within whose local limits the workshop is situated, a written notice containing—

- (a) the name and situation of the workshop,
- (b) the name of the person in actual management of the workshop,
- (c) the address to which communications relating to the workshop should be sent, and
- (d) the nature of the processes to be carried on in the workshop.

**3C. Disputes as to age.—**If any question arises between an Inspector and an employer as to <sup>17</sup>[the age of any child who is employed or is permitted to work by the employer] the question shall, in the absence of a certificate as to the age of such child, granted by a prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority].

<sup>18</sup>[3D. Maintenance of register.—There shall be maintained by every employer, in respect of children employed or permitted to work in pursuance of sub-section (2) of section 3 in any occupation referred to in sub-section (1) of that section, a register to be available for inspection by an Inspector at all

<sup>13</sup> Added by Act 15 of 1939, s. 3 (w.e.f. 1.10.1939).

<sup>14</sup> Subs. by s. 119 of Act 63 of 1948 (w.e.f. 1.4.1949) for "twelfth".

<sup>15</sup> Subs. by the A.O. 1950 for "Provincial".

<sup>16</sup> Ins. by Act 15 of 1939, s. 4 (w.e.f. 1.10.39).

<sup>17</sup> Subs. by Act 40 of 1949 for "whether any child has or has not completed his twelfth or fifteenth year, as the case may be".

<sup>18</sup> Ins. by Act 48 of 1951, s. 5.

times during working hours or when work is being carried on in any such occupation, showing—

- (a) the name and date of birth of every child under seventeen years of age so employed or permitted to work;
- (b) the periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

**3E. Display of notice containing Abstract of sections 3 and 4.**—Every railway administration and every port authority shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port, as the case may be, a notice in such Indian language or languages as may be prescribed and in the English language containing an abstract of sub-sections (1) and (2) of section 3 and section 4 of this Act.

**Explanation.**—In this section—

“railway administration” has the meaning assigned to it in the Indian Railways Act, 1890 (IX of 1890).]

**4. <sup>19</sup>[Penalty.**—Whoever—

- (a) employs any child or permits any child to work in contravention of the provisions of section 3; or
- (b) fails to give notice as required by section 3B; or
- (c) fails to maintain a register as required by section 3D or makes any false entry in any such register;

shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to five hundred rupees or with both.]

**5. Procedure relating to offences.**—No prosecution under this Act shall be instituted except by or with the previous sanction of an Inspector appointed under section 6.

<sup>20</sup>[(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.]

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

**6. Appointment of Inspectors.**—The competent authority may appoint persons to be Inspectors for the purpose of securing compliance with the provisions of this Act, and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

**7. Power to make rules.**—(1) The competent authority may by notification in the official Gazette and subject to the condition of previous publication make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) regulate the procedure of Inspectors appointed under section 6.<sup>21\*\*\*</sup>
- (b) make provision for the grant of certificates of age in respect of young persons in employment or seeking employment, <sup>22</sup>[the medical autho-

<sup>19</sup> Subs. by Act 48 of 1951, s. 6, for the former section 4.

<sup>20</sup> Subs. by Act 15 of 1939, s. 6 for the original sub-section (2) (w.e.f. 1.10.1939).

<sup>21</sup> The words “and” was omitted by Act 48 of 1951, s. 7.

<sup>22</sup> Subs. by Act 15 of 1939, s. 7 for “the authorities” (w.e.f. 1.10.1939).

rities] which may issue such certificates, the form of such certificate, the charges which may be made therefor, and the manner in which such certificates may be issued;

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned.

<sup>23</sup>[(c) fix the seven consecutive hours between 10 p.m. and 7 a.m. for the purpose of sub-section (2) of section 3;

(d) specify the circumstances in which and the conditions subject to which a child may be employed or permitted to work either as an apprentice or for the purpose of receiving vocational training in any occupation referred to in sub-section (1) of section 3;

(e) specify the other particulars which a register maintained under section 3D should contain;

(f) specify the Indian language or languages in which a notice referred to in section 3E shall be published; and

(g) provide for exemption from the provisions of sub-section (2) of section 3 in cases of emergencies which could not have been controlled or foreseen, which are not of a periodical character and which interfere with the normal working of any occupation referred to in sub-section (1) of section 3.].

8. [Amendment of section 6 of Act XV of 1908.] *Repealed by the Repealing and Amending Act, 1942 (25 of 1942), s. 2 and Sch. I.*

<sup>24</sup>[THE SCHEDULE.—(See SECTIONS 3, 3A AND 3B.)

#### LIST OF PROCESSES

1. Bidi-making.
2. Carpet-weaving.
3. Cement manufacture, including bagging of cement.
4. Cloth-printing, dyeing and weaving.
5. Manufacture of matches, explosives and fireworks.
6. Mica-cutting and splitting.
7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool cleaning.]

### EMPLOYMENT OF CHILDREN (RAILWAYS) RULES, 1955<sup>1</sup>

In exercise of the powers conferred by section 7 of the Employment of Children Act, 1938 (XXVI of 1938), and in supersession of the notification of the Government of India in the late Department of Labour No. L-3090, dated the 8th February, 1940, the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

#### THE RULES

1. (1) These rules may be called the Employment of Children (Railways) Rules, 1955.

<sup>23</sup> Added by Act 48 of 1951, s. 7.

<sup>24</sup> Added by Act 15 of 1939, s. 8 (w.e.f. 1.10.1939).

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 3600/ECA/7/2 (i) dated the 24th November, 1955 in the Gazette of India, 1955, Part II—Sec. 3, page 2325.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules, unless the context otherwise requires—

(i) the "Act" means the Employment of Children Act, 1938; and

(ii) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933).

3. Every child employed under the provisions of sub-section (2) of section 3 of the Act to work in any occupation specified in clause (a) of sub-section (1) of the said section shall be allowed an interval of rest for at least twelve consecutive hours which shall include seven consecutive hours from 10 p.m. to 5 a.m.:

Provided that permission in writing to fix the seven consecutive hours other than those mentioned above, between 10 p.m. to 7 a.m. is obtained from an Inspector appointed under the Act.

4. The provisions of sub-section (2) of section 3 of the Act shall not apply to any child who has completed his fifteenth year but has not completed his seventeenth year while such a child is employed or permitted to work in any occupation specified in clause (a) of sub-section (1) of the said section either as an apprentice or for the purpose of receiving vocational training subject to the following conditions:—

(a) the scheme of apprenticeship or vocational training shall have the prior approval of the Central Government, which may consult such organisations of workers and employers as it considers appropriate before according its approval;

(b) every such child shall be granted a rest period of at least thirteen consecutive hours between two working periods;

(c) every such child shall be medically examined and found fit for the particular trade; and

(d) an agreement to this effect shall be signed by the employer or his authorised representative on the one hand and the parent or guardian of the child on the other hand specifying the terms and conditions of apprenticeship.

5. The competent authority may exercise the powers conferred upon it under the second proviso to sub-section (2) of section 3 of the Act in order to avoid serious interference with the ordinary working of the railway, in cases of accident, or in any other emergency which could not have been foreseen or prevented.

6. (1) The register required to be maintained under section 3-D of the Act shall be in Form A appended to these rules.

(2) The register shall normally be maintained in English, but where it is maintained in any other language than English a true translation thereof in English shall be available.

(3) The register shall be maintained for a period of three years after the date of the last entry made therein.

7. Every railway administration shall cause to be displayed in a conspicuous and accessible place at every station on its railway a notice containing an abstract of sub-sections (1) and (2) of section 3 and section 4 of the Act, in English and in a language understood by the majority of the persons employed.

8. An Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passengers, goods or mails on a railway and may take on the spot, or otherwise such evidence of any persons and exercise such other powers of inspection as he may deem necessary for carrying out the purposes of the Act.

9. (1) Any qualified medical practitioner may grant certificates of age in respect of young persons in employment or seeking employment in railways.

(2) A certificate of age granted under sub-rule (1) shall be in Form B appended to these rules.

## FORM 'A'

*Register of Children between 15 and 17 years of age*

Name and address of employer.....Place of work.....

Serial No.	Name of child	Father's name	Date of birth	Permanent address	Date of joining the establishment	Nature of work on which employed	Daily hours of work	Intervals of rest	Remarks
1	2	3	4	5	6	7	8	9	10

## FORM 'B'

*Certificate of Age*

I hereby certify that I have personally examined (name).....  
 son/daughter of..... residing at.....  
 and that he/she has completed his/her fifteenth year and his/her age, as nearly as can  
 be ascertained from my examination, is.....years (completed).

His/her descriptive marks are.....  
 Thumb impression of child.....

Place.....

Date.....

Medical Practitioner.

**EMPLOYMENT OF CHILDREN (MAJOR PORTS) RULES, 1955<sup>1</sup>**

In exercise of the powers conferred by section 7 of the Employment of Children Act, 1938 (XXVI of 1938), and in supersession of the notification of the Government of India in the late Department of Labour No. L-3090, dated the 26th November, 1940, the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

**THE RULES**

1. (1) These rules may be called the Employment of Children (Major Ports) Rules, 1955.
- (2) They extend to the whole of India except the State of Jammu and Kashmir.
2. In these rules, unless the context otherwise requires, "the Act" means the Employment of Children Act, 1938 (XXVI of 1938).
3. Every child employed under the provisions of sub-section (2) of section 3 of the Act to work in any occupation specified in clause (b) of sub-section (1) of the said section shall be allowed an interval of rest for at least twelve consecutive hours which shall include seven consecutive hours from 10 p.m. to 5 a.m.:

Provided that permission in writing to fix the seven consecutive hours other than those mentioned above, between 10 p.m. to 7 a.m. is obtained from an Inspector appointed under the Act.

4. The provisions of sub-section (2) of section 3 of the Act shall not apply to any child who has completed his fifteenth year but has not completed his seventeenth year while

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 3643/ECA/7/2 (i) dated the 1st December, 1955 in the Gazette of India, 1955, Part II—Sec. 3, page 2346.

- (a) the scheme of apprenticeship or vocational training shall have the prior approval of the Central Government, which may consult such organisations of workers and employers as it may consider appropriate before according its approval;
- (b) every such child shall be granted a rest period of at least thirteen consecutive hours between two working periods;
- (c) every such child shall be medically examined and found fit for the particular trade; and
- (d) an agreement to this effect shall be signed by the employer or his authorised representative on the one hand and the parent or guardian of the child on the other hand specifying the terms and conditions of apprenticeship.

(2) A certificate of age granted under sub-rule (1) shall be in Form B appended to these rules.

*Register of Children between 15 and 17 years of age*

**Name and address of employer.....Place of work.....**

[illegible]

## FORM 'B'—[See rule 9(1).]

*Certificate of Age*

I hereby certify that I have personally examined (name).....  
 son/daughter of..... residing at.....  
 and that he/she has completed his/her fifteenth year and his/her age, as nearly as can  
 be ascertained from my examination, is.....years (completed).

His/her descriptive marks are.....  
 Thumb impression of child.....

Place.....

Date.....

Port Health Officer  
 Assistant Port Health Officer.

**Inspectors for Major Ports**

*S.R.O. 770 dated the 6th October, 1950.*—In exercise of the powers conferred by section 6 of the Employment of Children Act, 1938 (XXVI of 1938), and in supersession of the notification of the Government of India in the late Department of Labour, No. L-3092, dated the 7th October, 1940, the Central Government is pleased to appoint the under-mentioned persons to be Inspectors for the purposes of the said Act in respect of the major ports specified against each, namely:—

<i>Inspectors</i>		<i>Major Port</i>
Conciliation Officer (Central), Madras	...	Madras and Vizagapatam.
Conciliation Officer (Central), Bombay	...	Bombay
Conciliation Officer (Central), Calcutta	...	Calcutta.
The Labour Inspector (Central), Bombay	...	Bombay.
The Labour Inspector (Central), Calcutta	...	Calcutta.
The Labour Inspector (Central), Madras	...	Madras.
The Labour Inspector (Central), Vizagapatam	...	Vizagapatam.
The Port Officer	...	Cochin.

**Inspectors for Railways**

*S.R.O. 773, dated the 9th October, 1950.*—In exercise of the powers conferred by section 6 of the Employment of Children Act, 1938 (XXVI of 1938), and in supersession of the notification of the Government of India in the late Department of Labour, No. LR12(3)I, dated the 29th August, 1945, the Central Government is pleased to appoint the under-mentioned persons to be Inspectors for purposes of the said Act in respect of Railways, namely:—

1. Chief Labour Commissioner (Central).
2. Regional Labour Commissioner (Central), Bombay.
3. Regional Labour Commissioner (Central), Calcutta.
4. Regional Labour Commissioner (Central), Kanpur.
5. Regional Labour Commissioner (Central), Madras.
6. Conciliation Officer (Central), Bombay.
7. Conciliation Officer (Central), Calcutta.
8. Conciliation Officer (Central), Madras.
9. Conciliation Officer (Central), Delhi.
10. Conciliation Officer (Central), Lucknow.
11. Conciliation Officer (Central), Poona.
12. Conciliation Officer (Central), Gauhati.
13. Conciliation Officer (Central), Nagpur.
14. Conciliation Officer (Central), Asansol
15. Labour Inspectors (Central).

## CHILDREN (PLEDGING OF LABOUR) ACT, 1933 (II OF 1933)

### Statement of Objects and Reasons<sup>1</sup>

The Royal Commission on Labour found evidence in such widely separated areas as Amritsar, Ahmedabad and Madras of the practice of pledging child labour—that is, the taking of advances by parents or guardians on agreements, written or oral, pledging the labour of their children. In some cases, the children so pledged were subjected to particularly unsatisfactory working conditions. The Commission considered that the State would be justified in adopting strong measures to eradicate the evil and the Bill seeks to do so by imposing penalties on parties to agreements pledging the labour of children and on persons knowingly employing children whose labour has been pledged.

## CHILDREN (PLEDGING OF LABOUR) ACT, 1933 (II OF 1933)

### Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Agreements contrary to the Act to be void.
4. Penalty for parent or guardian making agreement to pledge the labour of a child.
5. Penalty for making with a parent or guardian an agreement to pledge the labour of a child.
6. Penalty for employing a child whose labour has been pledged.

## CHILDREN (PLEDGING OF LABOUR) ACT, 1933 (II OF 1933)<sup>1</sup>

*An Act to prohibit the pledging of the labour of children.*

[24th February 1933.]

Whereas it is expedient to prohibit the making of agreements to pledge the labour of children, and the employment of children whose labour has been pledged: It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Children (Pledging of Labour) Act, 1933.

<sup>2</sup>[(2) It extends to the whole of India <sup>3</sup>[except the State of Jammu and Kashmir].]

(3) This section and sections 2 and 3 shall come into force at once, and the remaining sections of this Act shall come into force on the first day of July, 1933.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

“an agreement to pledge the labour of a child” means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment:

Provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 195; see also above. This Act has been extended to Berar by the Berar Laws Act, 1941 (IV of 1941).

<sup>2</sup> Substituted by the Adaptation of Laws Order, 1950, for the former sub-section (2).

<sup>3</sup> Substituted by the Part B States (Laws) Act, 1951 (3 of 1951), s. 3 and Schedule for “except Part B States”.



to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition;

"child" means a person who is under the age of fifteen years; and

"guardian" includes any person having legal custody of or control over a child.

**3. Agreements contrary to the Act to be void.**—An agreement to pledge the labour of a child shall be void.

**4. Penalty for parent or guardian making agreement to pledge the labour of a child.**—Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees.

**5. Penalty for making with a parent or guardian an agreement to pledge the labour of a child.**—Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees.

**6. Penalty for employing a child whose labour has been pledged.**—Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

## APPRENTICES ACT, 1850 (XIX OF 1850)<sup>1</sup>

### Arrangement of Sections

#### Preamble.

1. Apprenticing of child between ten and eighteen years.
2. Evidence of age in questions as to right to service.
3. Powers of Magistrate or Justice acting for orphans, etc.
4. Apprenticing of child brought up by public charity.
5. to 7. *Repealed.*
8. Form and contents of contract of apprenticeship.
9. Signatures to contract.
10. Contract not valid unless essential as prescribed and deposited: Copies to be given to parties.
11. Alteration of terms of service and termination of contract.
12. Assignment of apprentice to new master.
13. Powers of Magistrate in case of complaint by apprentice against master.
14. Powers of master or his agent to chastise apprentice: Liability of master or agent for assault, etc.
15. Power of Magistrate in case of complaint by master against apprentice.
16. Cancellation of contract for misconduct of apprentice.
17. Appropriation of sum recovered for apprentice on cancellation of contract.
18. Limitation of complaint of master against apprentice; of apprentice against master.
19. Effect of death of master during apprenticeship: Offer by representative of master to continue apprentice.
20. Offer to be certified on original contract and copies.
21. Maintenance of apprentice whose master dies: Apprentice to continue to serve.
22. Effect of insolvency of master during apprenticeship.
23. Persons amenable to jurisdiction of Magistrates' Courts.
24. Appeal from orders of Mufassal Magistrates.
25. Interpretation of terms.

<sup>1</sup> Short title given by the Indian Short Titles Act, 1897 (14 of 1897).

# APPRENTICES ACT, 1850 (XIX OF 1850)<sup>2</sup>

## Concerning the Binding of Apprentices

[11th April, 1850.]

**Preamble.**—For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood: It is enacted as follows:—

1. **Apprenticing of child between ten and eighteen years.**—Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage.

2. **Evidence of age in questions as to right to service.**—The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

3. **Powers of Magistrate or Justice acting for orphans, etc.**—Any Magistrate or Justice of the Peace may act with all the powers of a guardian under the Act on behalf of any orphan, or poor child abandoned by its parents or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

4. **Apprenticing of child brought up by public charity.**—An orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors or managers thereof, as his or her guardians for this purpose.

5. (*Apprenticing of such boy in sea service.*) *Rep. by the Indian Merchant Shipping Act, 1923 (21 of 1923) s. 296.*

<sup>2</sup> This Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874) to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, the Western Duars, the Western Hills of Darjeeling, the Darjeeling Tarai, and the Damson Sub-Division of the Darjeeling District. *See Gazette of India, 1881, Pt. I, p. 74.*

The Districts of Hazaribagh, Lohardaga (now the Ranchi District, see *Calcutta Gazette*, 1899, Pt. I, p. 44), and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum. *See Gazette of India, 1881, Pt. I, p. 504.*

The Scheduled portion of the Mirzapur District. *See Gazette of India, 1879, Pt. I, p. 383.*

Jaunsar Bawar. *See Gazette of India, 1879, Pt. I, p. 382.*

The Scheduled Districts of the C. P. *See Gazette of India, 1879, Pt. I, p. 771.*

The Scheduled Districts in Ganjam and Vizagapatam. *See Gazette of India, 1898, Pt. I, p. 870.*

The whole of Assam (except the North Lushai Hills). *See Gazette of India, 1897, Pt. I, p. 299.*

It has been extended, by notification under s. 5 of the last-mentioned Act, to the following Scheduled Districts, namely:—

Kumaon and Garhwal. *See Gazette of India, 1876, Pt. I, p. 606.*

The Tarai of the Province of Agra. *See Gazette of India, 1876, Pt. I, p. 505.*

It has been declared, by notification under s. 3 (b) of the same Act, not to be in force in the Scheduled Districts of Lahaul. *See Gazette of India, 1886, Pt. I, p. 301.*

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

Instruments of apprenticeship executed by a Magistrate under this Act, or by which a person is apprenticed by or at the charge of a public charity, are exempted from stamp duty by the Stamp Act, 1899 (2 of 1899), Sch. I, Art. No. 9.

6. (*Apprenticing of such boy in ship of the East India Company.*) Rep. by the Repealing Act, 1870 (14 of 1870).

7. (*Who to be agent of master of apprentice serving in ship*) Rep by the Indian Merchant Shipping Act, 1923 (21 of 1923.) s. 296.

8. **Form and contents of contract of apprenticeship.**—Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

9. **Signatures to contract.**—Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but when the apprentice is bound by the governors, directors or managers of a public charity, the signature of two of them, or of their secretary or officer shall be sufficient on behalf of the persons binding the apprentice.

10. **Contract not valid unless essential as prescribed and deposited: Copies to be given to parties.**—No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, \* \* \* ; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract without formal proof of the handwriting of the Magistrate. \* \* \*

11. **Alteration of terms of service and termination of contract.**—The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice if he is above the age of fourteen years: Provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to section <sup>5</sup>[9] of this Act; and the Magistrate\* \* \* shall thereupon make under his hand corresponding endrosements on the office copies, which shall be brought to him at the same time for that purpose.

12. **Assignment of apprentice to new master.**—The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof: Provided that such person shall by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate \* \* \* according to the form given in Schedule B annexed to this Act.

<sup>3</sup> The words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X of 1841, to make registry of ships at the port where the apprentice is to begin his service" were repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923), s. 296.

<sup>4</sup> The words "or Registering Officer" were repealed, *ibid*.

<sup>5</sup> This figure was substituted for "8" by the Amending Act, 1891 (12 of 1891).

**13. Powers of Magistrate in case of complaint by apprentice against master.**—Upon complaint made to any Magistrate in the said territories\* by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint,

and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and upon proof thereof may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees;

and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and, if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

**14. Powers of master or his agent to chastise apprentice: Liability of master or agent for assault, etc.**—No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished had it been against his child, whether or not any proceedings be taken for cancelling the contract of apprenticeship.

**15. Power of Magistrate in case of complaint by master against apprentice.**—Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of anybody, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

**16. Cancellation of contract for misconduct of apprentice.**—Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the

\* i.e., British India, the reference being to the expression "territories under the Government of the East India Company" which occurred in s. 5 supra, since repealed.

apprentice and of his father or guardian, if the charge is not proved; and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

**17. Appropriation of sum recovered for apprentice on cancelment of contract.**—The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

**18. Limitation of complaint of master against apprentice: of apprentice against master.**—No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act unless it be brought within one month after the cause of complaint arose, or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories; and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act unless it be brought within three months after the cause of complaint arose, or, if the cause of complaint arose on board ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.

**19. Effect of death of master during apprenticeship: offer by representative of master to continue apprentice.**—If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

**20. Offer to be certified on original contract and copies.**—If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors <sup>7</sup>[or] administrators on the original contract of apprenticeship, and also on the office copies thereof, by the Magistrate<sup>\*\*\*\*</sup> and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

**21. Maintenance of apprentice whose master dies: Apprentice to continue to serve.**—Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him: Provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master or such person as they appoint.

**22. Effect of insolvency of master during apprenticeship.**—The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship;

<sup>7</sup> This word was substituted for the word "and" by the Amending Act, 1891 (13 of 1891).

<sup>8</sup> The words "or Registering Officer" were repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923).

and, if any premium was paid on binding him as an apprentice, he or a person by whom he was bound shall be entitled to claim the amount thereof as a debt against the estate of the bankrupt or insolvent.

**23. Persons amenable to jurisdiction of Magistrates' Courts.**—For the purposes of this Act all <sup>9</sup>[citizens of India], wherever or of whatever parents born, as well as other persons in <sup>10</sup>[Part A States or Part C States] without the towns of Calcutta and Madras and town and island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of <sup>10</sup>[Part A States or Part C States].

**24. Appeal from orders of Mufassal Magistrates.**—An Appeal shall lie from any order passed by any Magistrate without the said towns and island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

**25. Interpretation of terms.**—In this Act the words "master", "owner", "person", and the pronoun 'he' shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

#### SCHEDULE A

##### *Form of Agreement*

This agreement made the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ between *A. B.*, of \_\_\_\_\_ and *C. D.*, of \_\_\_\_\_ witnesseth that the said *A. B.* doth this day bind *E. F.*, a boy (or girl) at the age of \_\_\_\_\_ years completed, son (or daughter) of the said *A. B.* (or otherwise describing the relation in which *A. B.* and *E. F.* stand), to dwell with and serve the said *C. D.* as an apprentice, from this day forth for \_\_\_\_\_ years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said *C. D.*, according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things, towards the said *C. D.* and his (or her) family. And the said *C. D.* for himself (or herself) and his (or her) executors and administrators in consideration [of the premium<sup>11</sup> or sum of \_\_\_\_\_ paid by the said *A. B.* to the said *C. D.*, the receipt whereof the said *C. D.* hereby acknowledges, and] of the faithful service of the said *E. F.*, doth covenant and agree with the said *A. B.*, his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said *E. F.* in the best way and manner that he (or she) can, the trade (craft or employment) of a \_\_\_\_\_ during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit and reasonable for an apprentice; (and further, *here insert any special covenants*).

In witness whereof the parties have hereunto set their hands and seals the day and year above written.

*A. B.* L.S.  
*C. D.* L.S.

#### SCHEDULE B

##### *Form of Order of Assignment*

(To be endorsed on the Agreement).

Be it known to all men that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ personally appeared before *G. H.*, Magistrate of \_\_\_\_\_, *C. D.*, of \_\_\_\_\_ with *E. F.*, his (or her) apprentice and *J. K.*, of \_\_\_\_\_ and desired that the agreement of apprenticeship whereby the said *E. F.* was bound to the said *C. D.* might be assigned and made over to the said *J. K.*, and the said *G. H.*, having satisfied himself,

<sup>9</sup> Substituted for the words "British subjects" by the Adaptation of Laws Order, 1950.

<sup>10</sup> These words were substituted for the words "the Provinces" *ibid.*

<sup>11</sup> If there is no premium, the words between brackets may be omitted.

by personal examination of the said *E. F.* and by other lawful ways and means, that such assignment is for the benefit of the said *E. F.*, and is made with the consent of <sup>12</sup>[the said *E. F.*, and of] all persons whose consent thereunto by law is required, doth allow such assignment; and the contract of apprenticeship whereby the said *E. F.* was on the                    day of                    in the year                    bound to the said *C. D.* as an apprentice to learn the trade (craft or employment) of a                    shall henceforth endure, unto the end of the said term, as if the said *J. K.* had been originally party to the said deed, and had executed the same, in the place and stead of the said *C. D.*, and shall be bound, for himself (or herself), his (or her) executors or administrators, to fulfil the covenants by the said *C. D.* to be performed and the said *E. F.* shall henceforth be bound unto the said *J. K.*, in like manner as he (or she) was by the said agreement bound unto the said                    *C. D.*                    *C. D.*                    *E. F.*                    *J. K.*

In witness whereof the said *C. D.*, *E. F.* and *J. K.* have hereunto set their hands before me the day and year above written.

*G. H.*,

Magistrate.

<sup>12</sup> If *E. F.* is not above the age of fourteen years, the words between brackets may be omitted.

# WAGES LEGISLATION





## **WAGES LEGISLATION**

### **Regulation and Protection of Wages**

Several legislative measures have been undertaken by the Central Government for the protection of wages of industrial labour, attachment of their wages and imprisonment for debt since the publication of the recommendations of the Royal Commission on Labour in India in 1931.

A very important branch of labour legislation is the protection of wages of industrial labour. The protection of wages have been brought about by means of several legislative measures, both by the Central Government and some of the State Governments and these measures may be classified under the following heads:—

(1) Payment of Wages—Payment of Wages Act, 1936, (2) Attachment of Wages—Code of Civil Procedure (Second Amendment) Act, 1937, (3) Imprisonment for Debt—Code of Civil Procedure (Amendment) Act, 1936 and Punjab Relief to Indebtedness Act, 1934, (4) Prohibition of Intimidation—Bengal Workmen's Protection Act, 1934, Central Provinces Protection of Debtors Act, 1937, Madras Workmen's Protection Act, 1941, and Bihar Workmen's Protection Act, 1948 and (5) Liquidation of Debt—Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936.

The first item is being discussed under the Payment of Wages Legislation and the remaining four items under the Indebtedness Legislation.

As a result of discussions in several meetings of the Indian Labour Conference and the Standing Labour Committee, the Central Government enacted the Minimum Wages Act in 1948, which, for the first time in India, provides for the statutory fixation and periodical revision of the minimum rates of wages in a number of scheduled employments. The Minimum Wage Legislation is being discussed under separate heading.

The provisions of the Payment of Wages Act, 1936 are also being progressively extended to new classes of wage earners employed in different industrial establishments by the State Governments. This progressive extension of the Payment of Wages Act, 1936 and the implementation of the Minimum Wages Act, 1948 are real achievements in the sphere of wages legislation in India.

## **PAYMENT OF WAGES LEGISLATION**

### **Protection of Wages**

Industrial workers have often to suffer from withholding or delays in the payment of wages and the deduction from the wages by way of fines, etc. Enquiries into the matter by the Government of India in 1926 revealed the existence of these evils and legislative proposals for their control were formulated in 1928 but these materials were placed before the Royal Commission on Labour which made several recommendations for legislative regulation in 1931, on the basis of which the Government of India passed the Payment of Wages Act in 1936 (IV of 1936).

### **Main Provisions of the Payment of Wages Act, 1936**

The Payment of Wages Act, 1936 ensures regular and prompt payment of wages and prevents the exploitation of wage earners by arbitrary deductions and fines. It came into force on the 28th March, 1937. The Act extends to the whole of India except the State of Jammu and Kashmir.

1. It prescribes deductions from wages which are permissible and regulates fining of workers and method of recovering fines. The Act applies only to the payment of wages to persons receiving less than Rs. 200/- per month and employed in factories and upon railways. The State Government may extend the provisions of the Act to other industrial establishments.

2. No wage period shall exceed one month and all wages should be paid in cash and only on working days. Factories, railways and other industrial establishments employing less than 1,000 workers are required to pay the workers' wages within a period of 7 days after the end of wage period and those employing more than 1,000 workers to pay within 10 days. Payments should always be made within 2 days where an employee is discharged.

3. No deduction from wages can be made except those permissible under the Act such as fines, deduction for absence from work, recovery in advances, house rent, income-tax payment, provident fund contribution, court dues, co-operative societies' dues.

4. The fining of children is prohibited. Employers are required to post notices, specifying the acts or omissions in respect of which fines are imposed. Fines for acts or omissions not so specified are illegal. Fines can not be recovered by instalments or after 60 days from the day of fining. The maximum amount deducted as fines is not to exceed, in any month, half an anna in the rupee of the workers' earnings. All fines must be recorded in a prescribed register and credited to a fines fund. The amounts realised from fines are to be utilised for such purposes beneficial to the workers as are approved by the Competent Authority.

5. The Act embodies punishment for contravention of the provisions and the maximum penalty is Rs. 500/-. All claims arising out of deductions from or delay in payment of wages shall be dealt with by Special Authority appointed by the State Government.

#### **Payment of Wages (Amendment) Act, 1937 (XXII of 1937)**

The Act was amended in 1937 in order to empower the employers to withhold wages in case of a stay-in-strike.

#### **Payment of Wages (Amendment) Ordinance, 1940 (Ord. III of 1940)**

During the war, the Act was amended empowering an employer to make deductions from wages, on written authorisation of the employee, for investment in any War Savings Scheme approved by the State Government.

#### **Enforcement and Administration**

The State Governments have been empowered to appoint Authorities to administer the Act. The State Governments have appointed Authorities to hear and decide all claims arising out of deductions from wages or delays in the payments of wages. Such Authorities have the powers to direct the refund of the amount deducted or the payment of the delayed wages together with compensation not exceeding ten times the amount in case of deduction or Rs. 10 in case of delay in payment. Application for such cases shall be made within six months from the date on which the deduction from the wages was made or the payment of wages was due.

In most of the States, an Inspector of Factories shall be an Inspector for the purposes of the Act in respect of all factories within the local limits assigned to him. The Government of Orissa have declared the Assistant Labour Commissioner, Orissa, to be an Inspector under the Act. The Government of Punjab have declared the Labour Commissioner, Labour Officers and Labour Inspectors of the Labour Department to be Inspectors under the Act.

The Chief Labour Commissioner (Central) is responsible for the administration of the Act in mines and railways other than railway workshops. The Central Government have appointed the Commissioner for Workmen's Compensation, West Bengal, to be the Authority under the Act in respect of coal mines in West Bengal. The Central Government have declared every officer appointed by the State Governments of Bihar, Madhya Pradesh, Assam and Orissa as Authority under the Act to be Authority for coal mines also within that area. The Central Government have further declared that every officer appointed by the State Governments of Assam, Bihar, Bombay, Madhya Pradesh, Orissa, Punjab, West Bengal, Ajmer, Delhi, Vindhya Pradesh, Himachal Pradesh, Bilaspur, Kutch and Tripura as Authority under the Act for any area, shall be the Authority to hear and decide claims of workers employed in any mine, other than coal mine, within that area.

### **Extension of the Provisions of the Act to New Classes of Wage Earners**

Though the Payment of Wages Act, 1936, was applicable only to factory and railway workers, the Central Government has extended the provisions of the Act, except sub-section (4) of Section 8, to all classes of persons employed in mines and covered under the Mines Act of 1952 in the whole of India except the State of Jammu and Kashmir.

The Act has been extended to (1) motor omnibus services in the States of Assam, Bihar, West Bengal, Madras, Coorg, Delhi, Punjab, Mysore and Tripura; (2) tramways in West Bengal, Madras, Punjab, Delhi, Mysore and Tripura; (3) plantations in Assam, Bihar, West Bengal, Madras, Mysore, Punjab, Coorg, Travancore-Cochin and Tripura; (4) inland steam navigation services in Assam, Bihar; (5) printing presses in Uttar Pradesh; (6) Government transport concerns and private transport companies in Punjab; (7) motor goods transport services in Delhi; (8) docks, wharfs or jetties in Assam; (9) motor vehicles plying under stage carriage permits and public carriers permits in Orissa; (10) dockyards in Bombay; (11) all industrial establishments employing 10 or more workers in Madras and Orissa; (12) establishments engaged in bidi making, shellac manufacture or leather tanning in certain districts in Madhya Pradesh; (13) industrial establishments declared to be factories under Section 85 of the Factories Act, 1948 in Bombay and Madras; (14) quarries in Punjab and Tripura and (15) workshops or other establishments in which articles are produced, adopted or manufactured with a view to their use, transport or sale in Punjab and Tripura.

### **Defects of the Payment of Wages Act, 1936**

The Labour Investigation Committee pointed out several defects of the Act: It (1) does not cover workers in mines and plantations, (2) does not compel the employer to utilise the fines fund within a prescribed period for the benefit of the workers, (3) does not clearly provide for penalising the employer for failure to produce registers at the time of inspection. The Committee also reported about the practice of making unauthorised deduction from wages for charity, bad work, etc., and punishing the workers not by fines but by suspending or by refusing work to them for a number of days or by reducing their pay. The contract labour and smaller class of establishments are not complying with the provisions and this is to a certain extent due to the inadequacy of the inspection staff.

### **Proposal for Amendment of the Payment of Wages Act, 1936**

The Government of India in their Five Year Labour Programme proposed to revise the Act in the light of comments of the Rege Committee and the experience of its working, with a view to (1) extend the scope of the Act, (2) rectify

the present defects, (3) get over the difficulties found in the working of the Act and (4) provide for proper utilisation of fine funds.

The Central Government have made certain proposals for the amendment of the Payment of Wages Act, 1936 and forwarded them to the employers' and employees' organisations for their views. These proposals are—(1) Revised definition of wages; (2) Extension of the Act to construction industry and contract labour; (3) Possibility of deductions for insurance premia and subscriptions to National or State loans; (4) Utilisation of fine fund; (5) Priority of wages over other debits in case a concern is wound up; (6) Raising of the wage limit from Rs. 200/- to Rs. 400/-; (7) Permitting deduction of rent of houses built by State Government under the Subsidized Industrial Housing Scheme and allotted to employers; and (8) Provision for an appeal from an order rejecting or dismissing a claim in full or in part.

The Deputy Labour Minister<sup>1</sup> recently stated in the Lok Sabha that the Bill to amend the Act would be introduced in the Parliament shortly and would be applicable to workers drawing up to Rs. 500/- per month and also to contract labour and transport workers. The amendment would provide for appeal by workers when their claims were rejected in full or in part.

#### **Amendment of the Payment of Wages Act by Bombay Government**

The Payment of Wages Act, 1936 in its application to the State of Bombay was amended by the Government of Bombay by the Payment of Wages (Bombay Amendment) Act, 1953 (Bom. LXII of 1953) which received the assent of the President on the 27th November, 1953 and came into force on the 10th May, 1954. The amendment was undertaken by the State Government as the experience of the working of the Act had shown that the present provisions were not adequate to secure to persons employed the payments due to them after a direction made by an Authority. The Amending Act makes both the employer and the manager or person responsible for the control of an industrial undertaking jointly and severally responsible for the recovery of wages and exempting the employees from payment of court fees and enables the Government to recover court fees in successful application from the employer instead of the employee only in respect of proceedings under Section 15. The Act was again amended by the Bombay Government by the Payment of Wages (Bombay Amendment) Act, 1954 (LXX of 1954) which received the assent of the President on the 15th November, 1954 and came into force from that date. The Amending Act empowers the Authority to recover the amount in all cases as an arrear of land revenue on the lines of Section 31 of the Workmen's Compensation Act, 1923 and exempts the employee from payment of court fees in respect of appeal proceedings under Section 17 with the modification that court fees of an amount of Rs. 5/- have to be paid and this amount will be refunded to him on his succeeding in the appeal.

### **PAYMENT OF WAGES ACT, 1936 (IV OF 1936)**

#### **Statement of Objects and Reasons<sup>2</sup>**

In 1926, the Government of India addressed Local Governments with a view to ascertain the position with regard to the delays which occurred in the payment of wages to persons employed in industry, and the practice of imposing fines on them. The investigations

<sup>1</sup> Industrial Bulletin No. 28 dated the 25th April, 1956 of the Employers' Federation of India, Bombay.

<sup>2</sup> Gazette of India, 1935, Part V, page 20.

revealed the existence of abuses in both directions and the material collected was placed before the Royal Commission on Labour which was appointed in 1929. The Commission collected further evidence on the subject and the results of their examination with their recommendations will be found on pages 216-221 and 236-241 of their Report. The Government of India re-examined the subject in the light of the Commission's Report and in February, 1933, a Bill embodying the conclusions then reached was introduced and circulated for the purpose of eliciting opinion. A motion for the reference of the Bill to a Select Committee was tabled during the Delhi Session of 1933-1934, but was not reached, and the Bill lapsed. The present Bill is based upon the same principles as the original but has been revised throughout in the light of the criticisms received when the original Bill was circulated.

## PAYMENT OF WAGES (AMENDMENT) ACT, 1937 (XXII OF 1937)

### Statement of Objects and Reasons<sup>3</sup>

Section 9 of the Payment of Wages Act although relieving the employer from payments to workmen who are not present for work, appears to render him liable to pay wages to persons who though present, decline to work. The Bill is intended to remedy this defect.

## PAYMENT OF WAGES ACT, 1936 (IV OF 1936)

### Arrangement of Sections

#### PREAMBLE.

1. Short title, extent, commencement and application.
2. Definitions.
3. Responsibility for payment of wages.
4. Fixation of wage-periods.
5. Time of payment of wages.
6. Wages to be paid in current coin or currency notes.
7. Deductions which may be made from wages.
8. Fines.
9. Deductions for absence from duty.
10. Deductions for damage or loss.
11. Deductions for services rendered.
12. Deductions for recovery of advances.
13. Deductions for payments to co-operative societies and insurance schemes.
14. Inspectors.
15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.
16. Single application in respect of claims from unpaid group.
17. Appeal.
18. Powers of authorities appointed under section 15.
19. Power to recover from employer in certain cases.
20. Penalty for offences under the Act.
21. Procedure in trial of offences.
22. Bar of suits.
23. Contracting out.
24. Application of Act to federal railways, mines and oilfields.
25. Display by notice of Abstracts of the Act.
26. Rule-making power.

<sup>3</sup> Gazette of India, 1937, Part V, page 121.

## PAYMENT OF WAGES ACT, 1936 (IV OF 1936)<sup>1</sup>

*An Act to regulate the payment of wages to certain classes of persons employed in industry.*

[23rd April, 1936.]

**Preamble.**—Whereas it is expedient to regulate the payment of wages to certain classes of persons employed in industry: It is hereby enacted as follows:—

1. **Short title, extent, commencement and application.**—(1) This Act may be called the Payment of Wages Act, 1936.

<sup>2</sup>[(2) It extends to the whole of India except <sup>3</sup>[the State of Jammu and Kashmir].

(3) It shall come into force on such date <sup>4</sup>as the <sup>5</sup>[Central Government] may, by notification in the <sup>6</sup>[Official Gazette], appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(5) The <sup>7</sup>[State Government] may, after giving three months' notice of its intention of so doing, by notification in the <sup>8</sup>[Official Gazette], extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(i) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934)<sup>9a</sup>;

(ii) "industrial establishment" means any—

(a) tramway or motor omnibus service;

(b) dock, wharf or jetty;

(c) inland steam-vessel;

(d) mine, quarry or oil-field;

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V. p. 20; see also page 854 ante; for Report of Select Committee, see *ibid.* p. 77. This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1950 for the words "It extends to all the Provinces of India including the Sonthal Parganas".

<sup>3</sup> Subs. by the Part B States (Laws) Act, 1951 for the words "Part B States".

<sup>4</sup> 28th March, 1937, see Gazette of India, 1937, Pt. I, p. 626.

<sup>5</sup> Subs. by the A. O. 1937 for the words "Governor-General in Council".

<sup>6</sup> Subs. for the words "Gazette of India", *ibid.*

<sup>7</sup> Subs. by the A.O. 1950 for the words "Provincial Government".

<sup>8</sup> Subs. by the A.O. 1937 for the words "Local Official Gazette".

<sup>9a</sup> See now the Factories Act, 1948.

(iv) "prescribed" means prescribed by rules made under this Act;

(v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890 (IX of 1890); and

(vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—

- (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the \* \* \* <sup>10</sup>[State Government],
- (b) any contribution paid by the employer to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (e) any gratuity payable on discharge.

**3. Responsibility for payment of wages.**—Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)—

- (a) in factories, if a person has been named as the manager of the factory under clause (c) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934),
- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- (c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

**4. Fixation of wage-periods.**—(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

**5. Time of payment of wages.**—(1) The wages of every person employed upon or in—

- (a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,

\* The words "Governor-General in Council or" omitted by A.O. 1937.

<sup>10</sup> Subs. by the A.O. 1950 for the words "Provincial Government".



(b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The <sup>11</sup>[State Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working-day.

**6. Wages to be paid in current coin or currency notes.**—All wages shall be paid in current coin or currency notes or in both.

**7. Deduction which may be made from wages.**—(1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890 (IX of 1890), the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

**Explanation.**—Every payment made by the employed person to the employer or his agent shall for the purposes of the Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

- (a) fines,
- (b) deductions for absence from duty;
- (c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody; or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
- (d) deductions for house-accommodation supplied by the employer;
- (e) deductions for such amenities and services supplied by the employer as the <sup>12</sup>\* \* \* <sup>13</sup>[State Government] may, by general or special order, authorise;

**Explanation.**—The word 'services' in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

- (f) deductions for recovery of advances or for adjustment of overpayments of wages;
- (g) deductions of income-tax payable by the employed person;
- (h) deductions required to be made by order of a Court or other authority competent to make such order;
- (i) deductions for subscriptions to, and for re-payment of advances from, any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922 (XI of 1922), or

<sup>11</sup> Subs. by the A.O. 1950 for the words "Provincial Government".

<sup>12</sup> The words "Governor-General in Council or" rep. by A. O. 1937.

<sup>13</sup> Subs. by the A.O. 1950 for the words "Provincial Government".

any provident fund approved in this behalf by the <sup>14</sup>[State Government] during the continuance of such approval; <sup>15\*</sup>

(j) deductions for payments to co-operative societies approved by the <sup>14</sup>[State Government] or to a scheme of insurance maintained by the Indian Post Office; <sup>16</sup>[and

(k) deductions, made with the written authorisation of the employed person in furtherance of any War Savings Scheme, approved by the <sup>14</sup>[State Government], for the purchase of securities of the Government of India or the Government of the United Kingdom.]

**8. Fines.**—(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the <sup>14</sup>[State Government] or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

**Explanation.**—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

**9. Deductions for absence from duty.**—(1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the

<sup>14</sup> Subs. by the A.O. 1950 for the words "Provincial Government".

<sup>15</sup> The word "and" rep. by s. 2 of Ordinance III of 1940.

<sup>16</sup> The word "and" and clause (k) added by s. 2, *ibid.*

total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the <sup>17</sup>[State Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

<sup>18</sup>[**Explanation.**—For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refuses, in pursuance of a stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

**10. Deductions for damage or loss.**—(1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

**11. Deductions for services rendered.**—A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and in the case of a deduction under the said clause (e), shall be subject to such conditions as <sup>19</sup>\* \* \* the <sup>17</sup>[State Government] may impose.

**12. Deductions for recovery of advances.**—Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:—

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

(b) recovery of advances of wages not already earned shall be subject to any rules made by the <sup>17</sup>[State Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

**13. Deductions for payments to co-operative societies and insurance schemes.**—Deductions under clause (j) <sup>20</sup>[and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the <sup>17</sup>[State Government] may impose.

**14. Inspectors.**—(1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934 (XXV of 1934), shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

<sup>17</sup> Subs. by the A.O. 1950 for the words "Provincial Government".

<sup>18</sup> Added by s. 2 of Act 22 of 1937.

<sup>19</sup> The words "the Governor-General in Council or" omitted by the A. O. 1937.

<sup>20</sup> Ins. by s. 3 of Ordinance 3 of 1940.

(2) The <sup>21</sup>[State Government] may appoint Inspector for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The <sup>21</sup>[State Government] may, by notification in the <sup>22</sup>[Official Gazette], appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

**15. Claims out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.**—(1) The <sup>21</sup>[State Government] may, by notification in the <sup>22</sup>[Official Gazette] appoint any Commissioner for Workman's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages of persons employed or paid in that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner, or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3 or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the

<sup>21</sup> Subs. by the A.O. 1950 for the words "Provincial Government".

<sup>22</sup> Subs. for the words "Local Official Gazette" by the A. O. 1937.

wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority, as if it were a fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

**16. Single application in respect of claims from unpaid group.—**(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

**17. Appeal.—**(1) An appeal against a direction made under <sup>23</sup>[sub-section (3) or sub-section (4)] of section 15 may be preferred, within thirty days of the date on which the direction was made, in a Presidency-town<sup>24</sup> \* \* \* \* before the Court of Small Causes and elsewhere before the District Court—

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or

(b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or

(c) by any person directed to pay a penalty under <sup>25</sup>[sub-section (4)] of section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or <sup>25</sup>[sub-section (4)] of section 15 shall be final.

**18. Powers of authorities appointed under Section 15.—**Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

<sup>23</sup> Subs. for the words, brackets and figure "sub-section (3)" by s. 2 and First Schedule of the Repealing and Amending Act, 1937 (XX of 1937).

<sup>24</sup> The words "or in Rangoon" omitted by the A. O. 1937.

<sup>25</sup> Subs. for the words, brackets and figure "sub-section (5)" by s. 2 and First Schedule of the Repealing and Amending Act, 1937 (XX of 1937).

**19. Power to recover from employer in certain cases.**—When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

**20. Penalty for offences under the Act.**—(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes the provisions of section 4, section 6 or section 2 shall be punishable with fine which may extend to two hundred rupees.

**21. Procedure in trial of offences.**—(1) No court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20 unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the Appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20 the authority empowered under section 15 or the Appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

**22. Bar of Suits.**—No Court shall entertain any suit for the recovery of wage or of any deduction from wages in so far as the sum so claimed—

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15; not to be owed to the plaintiff; or

(d) could have been recovered by an application under section 15.

**23. Contracting out.**—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

<sup>26</sup>[24. **Application of Act to Federal railways, mines and oilfields.**—The powers by this Act conferred upon the <sup>27</sup>[State Government] shall, in relation to <sup>28</sup>[Railways], mines and oilfields, be powers of the Central Government.]

**25. Display by notice of Abstracts of the Act.**—The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

**26. Rule-making power.**—(1) The <sup>27</sup>[State Government] may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(2) The <sup>27</sup>[State Government] may <sup>29</sup>\* \* \* \* \* by notification in the <sup>30</sup>[Official Gazette], make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

- (a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;
- (b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;
- (c) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wage of persons employed by them;
- (d) prescribe the manner of giving notice of the days on which wages will be paid;
- (e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed;
- (f) prescribe the procedure for the imposition of fine under section 8 and for the making of the deductions referred to in section 10;
- (g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;
- (h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;
- (i) prescribe the extent to which advances may be made and the instalments by which they may be recovered with reference to clause (b) of section 12;
- (j) regulate the scales of costs which may be allowed in proceedings under this Act;
- (k) prescribe the amount of court-fees payable in respect of any proceedings under this Act; and
- (l) prescribe the abstracts to be contained in the notices required by section 25.

<sup>26</sup> Subs. for the original section by the A. O. 1937.

<sup>27</sup> Subs. for the words "Provincial Government" by the A. O. 1950.

<sup>28</sup> Subs. by the A. O. 1950 for the words "Federal Railways within the meaning of the Government of India Act 1935".

<sup>29</sup> The words "subject to control of the Governor-General in Council" omitted by the A. O. 1937.

<sup>30</sup> Subs. for the words "Local Official Gazette" *ibid.*

(4) In making any rule under this section the <sup>27</sup>[State Government] may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall not be less than three months from the date on which the draft of the proposed rules was published.

## PAYMENT OF WAGES (PROCEDURE) RULES, 1937

### Arrangement of Paragraphs

1. Short title.
  2. Definitions.
  3. Form of application.
  4. Authorisation.
  5. Permission to appear.
  6. Presentation of documents.
  7. Refusal to entertain application.
  8. Appearance of parties.
  9. Record of proceedings.
  10. Signature on forms.
  11. Exercise of powers.
  12. Appeals.
  13. Inspection of documents.
- FORMS.

## PAYMENT OF WAGES (PROCEDURE) RULES, 1937<sup>1</sup>

In exercise of the powers conferred by sub-section (1) of section 26 of the Payment of Wages Act, 1936 (IV of 1936), read with section 22 of the General Clauses Act, 1897 (X of 1897), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (5) of section 26 of the first-named Act, namely:—

### RULES

1. **Short title.**—These rules may be called the Payment of Wages (Procedure) Rules, 1937.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

- (a) "the Act" means the Payment of Wages Act (IV of 1936);
- (b) "appeal" means an appeal under section 17;
- (c) "the Authority" means the authority appointed under sub-section (1) of section 15;
- (d) "the Court" means the court mentioned in sub-section (1) of section 17;
- (e) "employer" includes the persons responsible for the payment of wages under section 3;
- (f) "section" means a section of the Act;
- (g) "Form" means a form appended to these rules;
- (h) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. **Form of Application.**—Application under sub-section (2) of section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C as the case may be, one copy of which shall bear such court-fee as may be prescribed.

<sup>1</sup> These Rules were published under the Department of Industries and Labour Notification No. L. 3067 dated the 24th February, 1937 in Gazette of India, 1937, Part I, pages 303-312.



**4. Authorisation.**—The authorisation to act on behalf of an employed person or persons, under section 15, shall be given by a certificate in Form D, shall be presented to the Authority hearing the application and shall form part of the record.

**5. Permission to appear.**—Any person desiring the permission of the Authority to act on behalf of any employed person or persons shall present to the Authority a brief written statement explaining his interest in the matter, and the Authority shall record an order on the statement, which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

**6. Presentation of documents.**—(1) Applications or other document relevant to an application may be presented in person to the Authority at any time during hours to be fixed by the Authority, or may be sent to him by registered post.

(2) The Authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be.

**7. Refusal to entertain application.**—(1) The Authority may refuse to entertain an application presented under rule 6, if after giving the applicant an opportunity of being heard, the Authority is satisfied, for reasons to be recorded in writing that:—

(a) the applicant is not entitled to present an application; or

(b) the application is barred by reason of the provisions in the provisos to sub-section (2) of section 15; or

(c) the applicant shows no sufficient cause for making a direction under section 15.

(2) The Authority may refuse to entertain an application which is insufficiently stamped or is otherwise incomplete and, if he so refuses, shall return it at once with an indication of the defects. If the application is presented again after the defects have been made good, the date of re-presentation shall be deemed to be the date of presentation for the purposes of the provisos to sub-section (2) of section 15.

**8. Appearance of parties.**—(1) If the application is entertained, the Authority shall call upon the employer by a notice in Form E to appear before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may proceed to hear and determine the application *ex parte*.

(3) If the applicant fails to appear on the specified date, the Authority may dismiss the application.

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application reheard on good cause being shown within one month of the date of the said order, notice being served on the opposite party of the date fixed for rehearing.

**9. Record of proceedings.**—(1) The Authority shall in all cases enter the particulars indicated in Form F and at the time of passing orders shall sign and date the Form.

(2) In a case where no appeal lies, no further record shall be necessary.

(3) In a case where an appeal lies, the Authority shall record the substance of the evidence and shall append it under his signature to the record of direction in Form F.

**10. Signature on forms.**—Any form, other than a record of direction which is required by these rules to be signed by the Authority, may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

**11. Exercise of powers.**—In exercise of the powers of a Civil Court conferred by section 18 the Authority shall be guided in respect of procedure by the relevant orders of the first Schedule of the Code of Civil Procedure, 1908, with such alterations as the Authority may find necessary, not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of the Act or these rules.

**12. Appeals.**—(1) An appeal shall be preferred in duplicate in the form of a memorandum, one copy of which shall bear the prescribed court-fee, setting forth concisely the grounds of objection to the direction and shall be accompanied by a certified copy of that direction.

(2) When an appeal is lodged a notice shall issue to the respondent in Form G.

(3) The Court after hearing the parties and after such further inquiry, if any, as it may deem necessary, may confirm, vary, or set aside the direction from which the appeal is preferred, and shall make an order accordingly.

**13. Inspection of documents.**—Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal, or any other docu-

ment filed with the Authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on the payment of such fees as may be prescribed.

# FORM A

## *Form of Individual Application*

[See sub-section (2) of section 15 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, 1936 (IV of 1936) for.....area.

Application No.....of 19 .

Between A. B. C.....applicant,  
(through

a legal practitioner.

an official of.....  
which is a registered trade union),

And X. Y. Z....., Opposite party.

The applicant states as follows:—

I. A B. C is a person employed—— in  
on

factory  
railway entitled  
industrial establishment

and resides at

The address of the applicant for the service of all notices and processes is:

2. X. Y. Z., the opposite party, is the person responsible for the payment of his wages under section 3 of the Act, and his address for the service of all notices and processes is:

3. (1) The applicant's wages have not been paid for the following wage period(s) (give dates).

Or A sum of Rs.....has been unlawfully deducted from his wages of..... (amount) for the wage period(s) which ended on [give date(s)].

(2) [Here give any further claim or explanation.]

4. The applicant estimates the value of the relief sought by him at the sum of Rupees.....

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

Or Refund of the amount illegally deducted.

(b) Compensation amounting to

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

*Signature or thumb-impression of the  
employed person, or legal practi-  
tioner, or official of a registered  
trade union duly authorised.*

## FORM B

*Form of Group Application*

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, 1936 (IV of 1936) for.....area.

Application No.....of 19 ..

Between A. B. C. and (state the number).....others,  
Applicants;

(through ..... a legal practitioner  
an official of

.....which is a registered trade union).

And X. Y. Z....., Opposite party.

The applicants state as follows:—

1. The applicants whose names appear in the attached schedule are persons employed  
in the factory  
on the railway entitled  
on industrial establishment

The address of the applicants for service of all notices and processes is:

2. X. Y. Z., the opposite party, is the person responsible for the payment of wages under section 3 of the Act, and his address for the service of all notices and processes is:

3. The applicants' wages have not been paid for the following wage period(s):

4. The applicants estimate the value of the relief sought by them at the sum of  
rupees.....

5. The applicants pray that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of the applicants' delayed wages as estimated.....  
or such greater or lesser amount as the Authority may find to be due.

(b) Compensation amounting to.....

The applicants certify that the statement of facts contained in this application is to the best of their knowledge and belief accurate.

*Signature or thumb-impression of two  
of the applicants, or legal practi-  
tioner, or an official of a registered  
trade union duly authorised.*

## SCHEDULE

Names of applicants:—

1.

2.

3.

4.

\*

**FORM C**

*Form of Application by an Inspector or person permitted by the Authority or  
authorised to act*

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act, for  
.....area.

Application No.....of 19 .

*Between*

A. B. C., [(*designation*) \_\_\_\_\_], an Inspector under the Payment of Wages Act] [or a person \_\_\_\_\_ permitted by the authority \_\_\_\_\_ to act under sub-section (2) of section 15].....Applicant.

**And**

**X. Y. Z.....** Opposite party.

The applicant states as follows:

1. X. Y. Z., the opposite party is the person responsible under the Act for the payment of wages to the following person(s):

(I)

(2)

(3)

५

✱

2. His address for the service of all notices and processes is:

3. The wages of the said persons(s) due in respect of the following wage period(s) have not been paid.

have been subjected to the following illegal deductions:—

4. The applicant estimates the value of the relief sought for the person(s) employed at the sum of Rs.—

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of the delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

*Or Refund of the amount illegally deducted.*

(b) Compensation amounting to .....

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

*Signature.*

**FORM D**

### Certificate of Authorisation

I \_\_\_\_\_ a legal practitioner  
 employed person(s) hereby authorise \_\_\_\_\_  
 We \_\_\_\_\_ an official of \_\_\_\_\_

which is a registered trade union to act on my  
our

behalf under section 15, and section 17 of the Payment of Wages Act, 1936 (IV of 1936) in respect of the claim against \_\_\_\_\_ on account of the

{ delay in payment of } my  
 { illegal deductions from } our wages

for \_\_\_\_\_

**Witnesses (1)**  
**(2)**

**Signatures (1)**  
**(2)**

(3)  
(4)  
\*  
\*  
\*

(3)  
(4)  
\*  
\*  
\*

I accept the authorisation.

Signature

*Legal practitioner.*

*Official of a registered trade union.*

### FORM E

#### *Notice for the Disposal of Application*

To

Whereas under the Payment of Wages Act, 1936 (IV of 1936) a claim against you has been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person, or by any person duly instructed, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the \_\_\_\_\_ day of \_\_\_\_\_

fore  
19 , at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon to answer the claim; and as the day fixed after  
for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day before mentioned, the application will be heard and determined in your absence.

Given under my hand and seal, this day \_\_\_\_\_ 19 .

Seal

Authority.

### FORM F

#### *Record of Direction*

- (1) Serial number .....
- (2) Date of application .....
- (3) Name or names, parentage, address, or addresses of the applicants, or some, or all of the applicants belonging to the same unpaid group: .....
- (4) Name and address of the employer: .....
- (5) Amount claimed:—
  - (a) as delayed wages: Rs.....
  - (b) as deducted from wages: Rs.....
- (6) Plea of the employer and his examination (if any): .....
- (7) Finding, and, in the case of a direction under sub-section (3) or (4) of section 15, a brief statement of the reasons therefor: .....
- (8) Amounts awarded:—
  - (a) Delayed wages .....
  - (b) Deducted wages .....
- (9) Compensation awarded.....
- (10) Penalty imposed .....
- (11) Costs awarded to:—
  - (i) Court-fee charges .....
  - (ii) Pleader's fee .....
  - (iii) Witnesses' expenses .....

Rs.

Signed—

Dated —

NOTE.—In cases where an appeal lies attach on a separate sheet the substance of the evidence.

## FORM G

*Notice to Respondent of the Day Fixed for the Hearing of the Appeal under Section 17 of the Payment of Wages Act, 1936*

Appeal from the decision of the Authority for the \_\_\_\_\_ area,  
dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 .  
To

*Respondent*

Take notice that an appeal of which a copy is enclosed, from the decision of the Authority for \_\_\_\_\_ area has been presented by X.Y.Z. (and others), and registered in this Court, and that the \_\_\_\_\_ day of \_\_\_\_\_ 19 , has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, or by some one by law authorised to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Seal

*Judge.*

## PAYMENT OF WAGES (RAILWAYS) RULES, 1938

## Arrangement of Paragraphs

1. Title and application.
2. Definitions.
3. Register of fines.
4. Register of deductions for damage or loss
5. Register of wages.
6. Maintenance of Registers.
7. Place for displaying notices.
8. Notice of dates of payment.
9. Prescribed authority.
10. Application in respect of fines.
11. Approval of list of acts and omissions.
12. Posting of list.
13. Persons authorized to impose fines.
14. Procedure in imposing fines and deductions.
15. Information to paymaster.
16. Deductions under the proviso to sub-section (2) of section 9.
17. Annual return.
18. Advances to persons employed by a contractor.
19. Procedure, costs and court fees.
20. Abstracts.
21. Penalties.

FORMS.

PAYMENT OF WAGES (2\*RAILWAYS) RULES, 1938<sup>1</sup>

In exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24 of the Payment of Wages Act, 1936 (IV of 1936), and in supersession of the Payment of Wages (Railways) Rules, 1937, in so far as they relate to 2\* Railways within the meaning of the Government of India Act, 1935, the Central Government is pleased to make the following rules.

<sup>1</sup> The Payment of Wages (Federal Railways) Rules, 1938 were published under the Department of Labour Notification No. L 3070(1), dated 5th May, 1938 in Gazette of India, 1938, Part I, pages 943-948. The word "Federal" was deleted by the Ministry of Labour Notification No. S.R.O. 429 dated the 4th March, 1952. The Payment of Wages (Railways) Rules, 1937 published under the Department of Labour Notification No. L 3070, dated the 10th March, 1937 was rescinded by the Ministry of Labour Notification No. S.R.O. 428 dated the 4th March, 1952.

<sup>2</sup> The word "Federal" was deleted by the Ministry of Labour Notification No. S.R.O. 429 dated the 4th March, 1952.

the same having been previously published as required by sub-section (5) of section 26 of the first-named Act, namely:—

## RULES

**1. Title and application.**—(1) These rules may be called the Payment of Wages (<sup>2</sup>\*Railways) Rules, 1938

<sup>3</sup>[(1A) They extend to the whole of India except the State of Jammu and Kashmir.]

(2) These rules apply in respect of the payment of wages to persons employed upon any <sup>2</sup>\* railway (including factories) by or under a Railway Administration or by a contractor employing, on the average, 20 or more persons daily in any one month in the preceding 12 months.

**2. Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

(a) "the Act" means the Payment of Wages Act (IV of 1936);

(b) "the Authority" means the authority appointed under sub-section (1) of section 15 of the Act;

(c) "the Court" means the court mentioned in sub-section (1) of section 17 of the Act;

(d) "deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;

(e) "deduction for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;

(f) \* \* \* \*

(g) "Form" means a form appended to these rules;

(h) "Inspector" means an Inspector authorised by or under section 14 of the Act;

(i) "person employed" does not include any person to the payment of whose wages the Act does not apply.

(j) "section" means a section of the Act;

(k) "paymaster" means the Railway Administration or other person or persons who may be nominated as such by the Railway Administration under clause (c) of section 3; and in the case of a person employed by a contractor, the contractor;

(l) "the Supervisor" means the Supervisor of Railway Labour appointed by notification in the Gazette of India under sub-section (1) of section 71G of the Indian Railways Act (IX of 1890);

(m) "contractor" means a person fulfilling, either directly or through a sub-contractor, a contract with a Railway Administration;

(n) "employer" means the Railway Administration, and in the case of persons employed by a contractor, the contractor;

(o) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

**3. Register of fines.**—(1) On any railway where the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is

**4. Register of deductions for damage or loss.**—On every railway in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of section 10 in Form II.

**5. Register of Wages.**—A Register of Wages shall be maintained by every employer <sup>5</sup>[and shall be kept at the workspot] in such form as the paymaster finds convenient. <sup>6</sup>[The said Register shall include] the following particulars:—

(a) the gross wages of each person employed for each wage period;

<sup>3</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 429 dated the 4th March, 1952.

<sup>4</sup> Deleted, *ibid*.

<sup>5</sup> Substituted for the words "and may be kept" by the Ministry of Labour Notification No 1137 dated the 23rd May, 1955.

<sup>6</sup> Substituted for the words "and shall include", *ibid*.

(b) all deductions made from those wages, with an indication, in each case, of the clause of sub-section (2) of section 7 under which the deduction is made;

(c) the wages actually paid to each person employed for each wage period and the date of payment;

**6. Maintenance of Registers.**—The registers required by rules 3, 4, 7<sup>1</sup> and 18(3) shall be preserved for twelve months after the date of the last entry made in them.

The registers shall normally be maintained in English, but where they are maintained in any other language than English, a true translation thereof in English shall be available.

**7. Places for displaying notices.**—The Supervisor shall specify such place or places on the railway, other than factories, as he thinks fit (hereinafter referred to as "specified place" or "specified places") for the display of notices, lists and rules under rules 8, 12 and 16.

**8. Notice of dates of payment.**—The paymaster shall display, in a conspicuous place at or near the main entrance of every factory in his jurisdiction, and at the specified place or specified places, a notice, in English and in the language of the majority of the persons employed at such factories or places showing for not less than two months in advance, the days on which wages are to be paid.

**9. Prescribed authority.**—The Supervisor shall be the authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes to which the proceeds of fines shall be applied.

**10. Application in respect of fines.**—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Supervisor—

(a) a list, in English, in duplicate, clearly defining such acts and omissions;

(b) in cases where the Railway Administration himself does not intend to be the sole authority empowered to impose fines, a list, in duplicate, showing, by virtue of office, such of his officers as may pass orders imposing fines and the class of establishment on which any such officer may impose fine.

**11. Approval of list of acts and omissions.**—The Supervisor may, on receipt of the list prescribed in sub-rule (a) of rule 10, and after such enquiry as he considers necessary, pass orders in respect of the list referred to in clause (a) of rule 10 either—

(a) disapproving the list.

(b) approving the list either in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8:

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing against such order.

**12. Posting of list.**—The employer shall display at or near the main entrance of every factory, and at the specified place or specified places, a copy in English, together with a literal translation thereof in the language of the majority of the person employed at such factory or place, of the list of acts and omissions approved by the authority prescribed under Rule 9.

**13. Persons authorized to impose fines.**—(1) No fine may be imposed upon a person, employed by a Railway Administration, by any person other than the Railway Administration, or by a person holding an appointment named in the list referred to in clause (b) of rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor:

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than 50 persons in one locality, may with the approval of the Supervisor, delegate his power to fine to his representative in that locality.

**14. Procedure in imposing fines and deductions.**—(1) No fine shall be imposed on and no deductions made from a person employed by a Railway Administration except in accordance with the procedure laid down in the rules and regulations in force on the Railway Administration, and no fine shall be imposed or deduction made until the employed person has been given an opportunity of showing cause against such imposition or deduction.

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person authorized to impose the fine or make the deduction has explained personally to the said person the act or omission or damage or loss, in respect of which the fine or deduction is proposed to be

<sup>1</sup> Substituted for the word and figure "and 5" by the Ministry of Labour Notification No. S.R.O. 711 dated the 24th March, 1955.



imposed and the amount of the fine or deduction which it is proposed to impose and has heard his explanation in the presence of at least one other person.

**15. Information to paymaster.**—The person imposing a fine or directing the making of a deduction for damage or loss shall (unless such person is a paymaster) at once inform the paymaster of all particulars necessary for the completion of the register prescribed in Rule 3 or Rule 4, as the case may be.

**16. Deductions under the proviso to sub-section (2) of section 9.**—(1) No deduction under the proviso to sub-section (2) of section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless:—

(a) there is provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment; and

(i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less; and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;

(b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory, and at the specified place or specified places, concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) a notice has been displayed at or near the main entrance of the factory, and at the specified place or specified places, concerned, giving the names of the persons from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections or factories of the railway, it shall be sufficient, in lieu of giving the names of the persons in such departments, sections, or factories to specify the departments, sections, or factories affected.

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions.

**17. Annual Return.**—Every employer in which during the year ending the 31st March any fines have been imposed or any deductions for breach of contract or for damage or loss have been made from wages, shall send a return in Form III so as to reach the Supervisor not later than the 15th of May following the end of the year to which it relates.

**18. Advances to persons employed by a contractor.**—(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional cases the amount of such advance may, with the previous sanction of the Supervisor, be made to the extent of four calendar months' wages.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than 12 months in the case of ordinary advance and 20 months in the case of special advance. In no case shall the amount of instalment exceed  $\frac{1}{4}$ th of the wages earned in one month.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form V.

**19. Procedure, costs and court fees.**—The procedure to be followed by the authorities, appointed under sub-section (1) of section 15 and the Courts mentioned in sub-section (1) of section 17, of the Act, the scales of costs which may be allowed in, and the amount of court-fees payable in respect of, proceedings under the Act to which these rules apply, shall be such procedure, scales and amount as are from time to time prescribed by the State Government in the exercise of its powers under the Act in that behalf for the Authority or Court concerned.

**20. Abstracts.**—The Abstracts of the Act and of the Rules made thereunder to be displayed under section 25 shall be in Form IV.

**21. Penalties.**—Any breach of rules 3, 4, 5, 6, 8, 12, 15, <sup>a</sup>[17 and 18(3)] of these rules shall be punishable with fine which may extend to two hundred rupees.

<sup>a</sup> Substituted by Notification No S.R.O. 711 dated the 24th March, 1955.

FORM I  
Register of Fines

Department  
Division  
Railway District  
Factory

1	Serial No	
2	Name	
3	Father's Name	
4	Department	
5	Act or omission for which fine imposed	
6	Whether workman showed cause against fine or not If so enter date	
7	Rate of wages	
8	Date and amount of fine imposed	
9	Date on which fine realised	
10	Remarks	

FORM II

Register of Deductions for Damage or Loss caused to the Employer by the Neglect or Default of the Employed Persons

Department  
Division  
Railway District  
Factory

1	Serial No	
2	Name	
3	Father's Name	
4	Department	
5	Damage or loss caused	
6	Whether worker showed cause against deduction or not If so, enter date	
7	Date and amount of deduction imposed	
8	Nos of instalments if any	
9	Date on which total amount realised	
10	Remarks	

## INDIAN LABOUR CODE

## FORM III

*Deductions from Wages*

Return for the year ending 31st March, 19 .

1. Name of railway and postal address of headquarters
2. Total number of persons employed { children
3. Total wages paid { adults
4. Number of cases and amounts realised as—

	No. of Cases.	Amounts.
(a) Fines ... ..		Rs.
(b) Deductions for damage or loss ... ..		
(c) Deductions for breach of contract ... ..		

## 5. Disbursements from fine fund—

	Amount.	Purpose.
	Rs.	

Dated

19 .

Signature  
Designation

## FORM IV

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND THE RULES  
MADE THEREUNDER*Whom the Act affects*

1. The Act applies to the payment of wages to persons in this factory receiving less than Rs. 200 a month.
2. No employed person can give up by contract or agreement his rights under the Act.

*Definition of Wages*

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

It includes bonus and any sum payable for want of a proper notice of discharge.

It excludes:—

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government;
- (b) the employer's contribution to a pension or provident fund;
- (c) travelling allowance or concession or other special expenses entailed by the employment;
- (d) any gratuity payable on discharge.

*Responsibility for and method of payment*

4. The manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

*Fines and Deductions*

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9—15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Supervisor, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) Fines—

(a) shall not exceed half-an-anna in the rupee;

(b) shall not be recovered by instalments, or later than sixty days of the date of imposition;

(c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as approved by the Supervisor;

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but:—

(1) no deduction for breaking a contract can be made from a person under 15 or a woman.

(2) there must be a provision in writing which for part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice.

(3) the above provision must be displayed at or near the main entrance of the factory.

(4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory.

(5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government,

## INDIAN LABOUR CODE

## FORM III

*Deductions from Wages*

Return for the year ending 31st March, 19 .

1. Name of railway and postal address of headquarters
2. Total number of persons employed { children
3. Total wages paid { adults
4. Number of cases and amounts realised as—

	No. of Cases.	Amounts.
(a) Fines ... ..		Rs.
(b) Deductions for damage or loss ... ..		
(c) Deductions for breach of contract ... ..		
5. Disbursements from fine fund—		
	Amount.	Purpose.
	Rs.	

Dated

19 .

Signature  
Designation

## FORM IV

ABSTRACT OF THE PAYMENT OF WAGES ACT, 1936, AND THE RULES  
MADE THEREUNDER*Whom the Act affects*

1. The Act applies to the payment of wages to persons in this factory receiving less than Rs. 200 a month.
2. No employed person can give up by contract or agreement his rights under the Act.

*Definition of Wages*

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

It includes bonus and any sum payable for want of a proper notice of discharge.

It excludes:—

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government;
- (b) the employer's contribution to a pension or provident fund;
- (c) travelling allowance or concession or other special expenses entailed by the employment;
- (d) any gratuity payable on discharge.

*Responsibility for and method of payment*

4. The manager of the factory is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs.
5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

*Fines and Deductions*

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9—15 below).

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Supervisor, specify by a notice displayed at or near the main entrance of the factory and after giving the employed person an opportunity for explanation.

(2) Fines—

(a) shall not exceed half-an-anna in the rupee;

(b) shall not be recovered by instalments, or later than sixty days of the date of imposition;

(c) shall be recorded in a register and applied to such purposes beneficial to the employed persons as approved by the Supervisor;

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but:—

(1) no deduction for breaking a contract can be made from a person under 15 or a woman.

(2) there must be a provision in writing which for part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice.

(3) the above provision must be displayed at or near the main entrance of the factory.

(4) no deduction of this nature can be made until a notice that this deduction is to be made has been posted at or near the main entrance of the factory.

(5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14. Deductions can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government.

16. An Inspector can enter on any premises, and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

17. (i) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the Local Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

(3) A single application may be presented by, or on behalf of, any number of persons belonging to the same factory the payment of whose wages has been delayed.

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days in Madras, Bombay, Calcutta, to the Court of Small Causes and elsewhere to the District Court—

- (a) by the paymaster if the total amount directed to be paid exceeds Rs. 300;
- (b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50;
- (c) by a person directed to pay a penalty for a malicious or vexatious application.

20. Anyone delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine up to Rs. 500, but only if prosecuted with the sanction of the Authority or the Appellate Court.

21. The paymaster who,—

- (1) does not fix a wage-period, or
- (2) makes payment in kind, or
- (3) fails to display at or near the main entrance of the factory this Abstract in English and in the language of the majority of the employed persons, or
- (4) breaks certain rules made under the Act, is liable to a fine not exceeding Rs. 200.

A complaint to this effect can be made only by the Inspector, or with his sanction.

### Register of Advances made to Employed Persons

Name of Contractor.....

1	Serial No.
2	Name.
3	Father's Name.
4	Department.
5	Date and amount of advance made.
6	Purpose(s) for which advance made.
7	Number of instalments by which advance to be repaid.
8	Postponements granted.
9	Date on which total amount repaid.
10	Remarks.

## PAYMENT OF WAGES (MINES) RULES, 1954 (DRAFT)

### Arrangement of Paragraphs

1. Title and application.
  2. Definitions.
  3. Register of Fines.
  4. Register of deduction for damage or loss.
  5. Register of Wages.
  6. Maintenance of Registers.
  7. Places for displaying notices.
  8. Notice of dates of payment.
  9. Prescribed authority.
  10. Application in respect of fines.
  11. Approval of the list of acts and omissions.
  12. Posting of the list.
  13. Persons authorised to impose fines.
  14. Procedure in imposing fines and deductions.
  15. Information to the paymaster.
  16. Deductions under the proviso to sub-section (2) of section 9.
  17. Measurement of the amount of work done by piece-workers.
  18. Annual Return.
  19. Advances to persons employed by an employer.
  20. Procedure, costs and court-fees.
  21. Abstracts.
  22. Penalties.
- FORMS.

## PAYMENT OF WAGES (MINES) RULES, 1954 (DRAFT)<sup>1</sup>

The following draft of certain rules which the Central Government proposes to make in exercise of the powers conferred by sub-sections (2), (3) and (4) of section 26, read with section 24 of the Payment of Wages Act 1936 (IV of 1936) and in supersession of the notification of the Government of India in the Ministry of Labour, No. Fac.52(5) dated the 15th July, 1949,<sup>2</sup> is published as required by sub-section (5) of section 26 of the said Act for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 15th January, 1955.<sup>3</sup>

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

### DRAFT RULES

1. **Short title and application.**—(1) These rules may be called the Payment of Wages (Mines) Rules, 1954.

(2) These rules apply in respect of the payment of wages to persons employed either by the owner or by a contractor engaged by the owner, in any mine to which the Mines Act, 1952 (XXXV of 1952), applies.

(3) They extend to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In these rules unless the context otherwise requires:—

(a) "Act" means the Payment of Wages Act, 1936 (IV of 1936);

(b) "Authority" means the Authority appointed under sub-section (1) of section 15.

(c) "Contractor" means a person engaged under a contract by the owner of the mine for work on the mine and includes a sub-contractor;

(d) "Court" means the court mentioned in sub-section (1) of section 17;

<sup>1</sup> The Draft Rules were published under the Ministry of Labour Notification No. S.R.O. 3234 dated the 16th October, 1954 in Gazette of India, 1954, Part II—Sec. 3, p. 249.

<sup>2</sup> The Payment of Wages (Coal Mines) Rules, 1949 was published under this Notification.

<sup>3</sup> The draft has not been finalised upto June, 1956. Accordingly the payment of Wages (Coal Mines) Rules, 1949 are still in force.



- (e) "Deduction for breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;
- (f) "Deductions for damage or loss" means a deduction made in accordance with the provisions of clause (c) of sub-section (2) of section 7;
- (g) "Employer" means the owner of the mine and includes the manager or any other person responsible under section 3 of the Act for the Payment of Wages, and a Contractor;
- (h) "Form" means a Form appended to these rules;
- (i) "gang" means a group of persons not exceeding eight related to one another by family ties or customary association working under a recognised 'headman';
- (j) "headman" means leader of a gang who apportions piece-work undertaken by the gang and distributes wages amongst his group as mutually agreed upon;
- (k) "Inspector" means an inspector authorised by or under section 14 of the Act;
- (l) "Mine" means a mine as defined in clause (j) of Section 2 of the Mines Act, 1952 (XXXV of 1952);
- (m) "Paymaster" means the employer or other person or persons who may be nominated as such by the employer under clause (b) of section 3 and includes a contractor;
- (n) "Person employed" does not include any person to the payment of whose wages the Act does not apply;
- (o) "section" means a section of the Act; and
- (p) words and expressions used in these rules and not defined but defined in the Act shall have the same meanings respectively assigned to them in the Act.

**3. Register of Fines.**—(1) In any mine where the employer has obtained approval under sub-section (1) of section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form I.

(2) At the beginning of the Register of Fines, there shall be entered serially numbered the approved purpose or purposes on which the amount of the fines realised are to be expended.

(3) When any disbursements are made from the amounts of the fines realised, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

**4. Register of deductions for damage or loss.**—In every mine in which deductions for damage or loss are made, the paymaster shall maintain the register required by sub-section (2) of section 10, in Form II.

**5. Register of Wages.**—A register of wages in Form III shall be maintained and kept at the workspot, by every employer in proof of payment of wages to the employees directly and individually or through a recognised headman in the case of a gang.

**6. Maintenance of registers.**—(1) A register required to be maintained under rules 3, 4, 5 or 19(3) shall be preserved for a period of three years.

(2) Every such register shall normally be maintained in English, but where it is maintained in any language other than English, a true translation thereof in English shall be available.

**7. Places for displaying notices.**—The Inspector shall specify such place or places in the mine as he thinks fit (hereinafter referred to as the "specified place or places") for the display of notices, lists and rules under rules 8, 12 and 16.

**8. Notice of dates of payment.**—(1) The paymaster shall display in a conspicuous place at or near the main entrance of the work place or places at the mine and at the specified place or places, a notice in English and in the language of the majority of the persons employed at such place or places showing:—(i) for not less than two months in advance the days on which wages are to be paid, (ii) the rates of wages and scales of allowances payable to persons employed in the mines concerned in Form VII.

(2) Copies of all such notices and alterations therein shall be sent to the Inspector.

**9. Prescribed authority.**—The Inspector shall be the prescribed authority competent to approve, under sub-section (1) of section 8, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 8, the purposes to which the fines realised may be applied.

**10. Application in respect of fines.**—Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Inspector—

- (a) a list, in English, in duplicate, clearly defining such acts and omissions;
- (b) in cases where the employer himself does not intend to be the sole authority empowered to impose fines, a list, in duplicate, showing by virtue of office or otherwise, such members of his staff as may pass orders imposing fines and the class of establishment on which any such member may impose a fine.

**11. Approval of list of acts and omissions.**—The Inspector may, on receipt of the list prescribed by clause (a) of rule 10, and after such inquiry as he considers necessary, pass orders in respect of the said list either—

- (a) disapproving the list, or
- (b) approving the list in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub-section (1) of section 8:

Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause in writing against such order.

**12. Posting of the list.**—(a) The employer shall also display at or near the main entrance of the workplace or places at the mine and at the specified place or places, a list showing the name and complete address of the Inspector who exercises jurisdiction under the Act over that mine.

(b) The employer shall display at or near the main entrance of the workplace or places at the mine and at the specified place or places, a copy in English, together with a literal translation thereof, in the language of the majority of the persons employed at such mine or place of the list approved under rule 11.

**13. Persons authorised to impose fines.**—(1) No fine may be imposed upon a person employed in a mine by any person other than the employer or by a person included in the list referred to in sub-rule (b) of rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor:

Provided that a contractor who runs more than one establishment in two or more localities, and who employs not less than 50 persons in one locality, may, with the approval of the Inspector, delegate his power to fine to his representative in that locality.

**14. Procedure in imposing fines and deductions.**—(1) No fine shall be imposed on, and no deductions shall be made from, the wages of any person employed in a mine except in accordance with the procedure laid down in the rules and regulations in force in the mine, and no fine shall be imposed or deduction made from the wages until the employed person has been given an opportunity in writing of showing cause against such imposition or deduction.

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from, the wages of a person employed by a contractor until the person authorised to impose the fine or make the deductions has explained personally to the said person the act or omission, or damage or loss in respect of which the fine or deduction is proposed to be imposed or made and the amount of the fine or deduction, which it is proposed to impose or make and has heard his explanation in the presence of at least one other employed person.

**15. Information to the paymaster.**—The person imposing a fine or directing the making of a deduction for damage or loss shall (unless such person is the paymaster) at once inform the paymaster of all particulars necessary for the completion of the register prescribed by rule 3 or rule 4, as the case may be.

**16. Deductions under the proviso to sub-section (2) of section 9.**—(1) No deduction under the proviso to sub-section (2) of section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless—

- (a) there is a provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment; and
  - (i) the period of the notice does not exceed fifteen days or the wage period, whichever is less; and
  - (ii) the period of the notice does not exceed the period of notice which the employer is required to give of the termination of the employment;

- (b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the work place or places at the mine, and at the specified place or places concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;
- (c) at least one week before such deduction is made a notice has been displayed at or near the main entrance of the work place or places at the mine, and at the specified place or places concerned, giving the names of the persons from whom deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted:

Provided that where the deduction is proposed to be made from all the persons employed in any department or section of the mine, it shall be sufficient, in lieu of giving the names of the persons in such department or section of the mine, to specify the department or section affected.

(3) No such deduction shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions.

**17. Measurement of the amount of work done by piece workers.**—(1) In the case of piece-workers the surveyor who measures the work for such workers, shall at the time of measurement, hand over to the miners a statement in writing containing the measurement figures immediately after taking the measurements in the presence of the workers concerned. A record of measurement shall also be maintained in a measurement book of permanent nature and at the close of the wage period a list of measurements shall be written up under the signature or thumb impression of the workers and a copy thereof shall be given to the workers also. In case of disputes regarding measurements the surveyor shall, as far as possible, settle the dispute on the spot.

(2) All weights, measures and weighing machines which are used for checking or ascertaining the wages of employed persons shall be made available for examination to the Inspector, who may in the event of his not being satisfied with the correctness of the apparatus or the weights seal and prohibit their future use and report the matter immediately for necessary action to the appropriate authority responsible for the administration of the Measure of Weights Act, 1889 (II of 1889) and the Standards of Weights Act, 1939 (IX of 1939).

**18. Annual Return.**—Every employer shall send a return in Form IV so as to reach the Inspector not later than the 15th of May following the end of the year to which it relates.

**19. Advances to persons employed by an employer.**—(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional circumstances the amount of such advance may, with the previous sanction of the Inspector, be made to the extent of four calendar months' wages.

(2) The advance may be recovered in instalments by deduction from the wages spread over not more than twelve months in the case of an ordinary advance and twenty-four months in the case of an advance granted in exceptional circumstances. In no case shall the amount of an instalment exceed one-fourth of the wages earned in a wage period.

(3) The amount of all advances sanctioned and the repayments thereof shall be entered in a register in Form V which shall be maintained in English and in the language spoken by the majority of workers.

**20. Procedure, costs and court fees.**—The procedure to be followed by the authorities appointed under sub-section (1) of section 15 and the Courts mentioned in sub-section (1) of section 17, the scales of costs which may be allowed in, and the amount of court fees payable in respect of proceedings under the Act to which these rules apply, shall be such procedure, scales and amounts as are from time to time prescribed by the State Government in the exercise of its powers under the Act in that behalf for the authority or court concerned.

**21. Abstracts.**—The Abstracts of the Act and of the Rules made thereunder to be displayed under section 25 shall be in Form VI.

**22. Penalties.**—A contravention of rule 3, 4, 5, 6, 8, 12, 15 or 18 shall be punishable with fine which may extend to two hundred rupees.



## FORM III—(See rule 5)

*Register of Wages*

Entries are to be made against each individual worker. In the case of 'gangs' (at manganese mines), the names of the members of the gang shall be entered with the headman's name on top.

Entries for each category of workers to be made separately.

Serial Number	Identification Account number allotted by the Coal Mines Provident Fund Commissioner	Names *	Occupation	Days† worked. No. of units worked S:M:T: W Th: F: S: 1, 2, 3, 28, 29, 30, 31†	Total	Wage Rate	Basic Wages	
							Ordinary	Special
1	2	3	4	5	6	7	8	9

Lead lift	Dearness		Other cash payments	Total amount earned	Workmen's contribution to Provident Fund	Employer's contribution to Provident Fund	Total reduction made	Net amount payable	Signature or thumb impression or remarks§
10	11	12	13	14	15	16	17	18	19

\* In the case of time-rated workers only attendance or absence should be marked.

† In the case of piece workers, the number of units worked should be entered, e.g., tons, tubs, khudis or grade of minerals raised or loaded.

‡ Days worked in the case of monthly paid workers.

§ If thumb impression is not taken, the signature of the person supervising the payment should be taken. In the case of gangs the headman shall obtain receipt of each adult member and a guardian of minor members of the gang for whatever amount is paid to them.

NOTE.—Columns not applicable to any particular mine may be left unfilled by the employer.

**FORM IV—(See rule 18)**

### Annual Return

Return for the year ending 31st March 195 .

- |  |                |
|--|----------------|
| 1. Name of the mine and postal address.    |                |
| 2. Total* number of persons employed       | { Men<br>Women |
| 3. Total wages paid                        | { Men<br>Women |
| 4. Number of cases and amounts realised as |                |

	No. of cases	Amount
(a) Fine.....		Rs.
(b) Deductions for damage or loss.....		
(c) Deductions for breach of contract.....		

5. Disbursements from the fine fund—

	Amount	Purpose

\* The total number of persons employed means the average daily number of persons employed obtained by dividing the aggregate number of attendances during the year by the number of working days.

**Signature**

Dated 195 .

### Designation

**FORM V—[See rule 19(3)]**

*Register of advances made to employed persons.*

1	Serial No.
2	Name
3	Father's name
4	Occupation
5	Earnings during a wage period
6	Date and amount of advance
7	Purpose(s) for which advances made
8	Number of instalments by which advance to be repaid
9	Amount of instalments repaid with dates of postponements granted
10	Date on which total amount paid
11	Signature or thumb impression of the worker or remarks

## FORM VI—(See rule 21)

*Abstract of the Payment of Wages Act, 1936, and the Rules made thereunder  
Whom the Act affect*

1. The Act applies to the payment of wages to persons in mines receiving less than Rs. 200 a month.
2. No employed person can give up by contract or agreement his rights under the Act.

*Definition of wages*

3. "Wages" means all remuneration payable to an employed person on the fulfilment of his contract of employment.

It includes bonus and any sum payable for want of a proper notice of discharge.

It excludes:—

- (a) the value of house-accommodation, supply of light, water, medical attendance, or other amenity or of any service excluded by the Central Government;
- (b) the employer's contribution to a pension or provident fund;
- (c) travelling allowance or concession or other special expenses entailed by the employment;
- (d) any gratuity payable on discharge.

*Responsibility for and method of payment*

4. (a) The employer is responsible for the payment under the Act of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs;

(b) The headman of any gang who apportions work between the members of the gang and receives payment on the output of the work of the members of his gang is responsible for the payment of wages to the individual members of the gang

5. Wage-periods shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage-period (or within 10 days if 1,000 or more persons are employed).

The wages of a person discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

*Fines and Deductions*

8. No deductions shall be made from wages except those authorised under the Act (see paragraphs 9-15 below).

9. Fines can be imposed only for such acts and omissions as the employer may, with the previous approval of the Inspector, specify by a notice displayed at or near the main entrance of the work place or places at the mine and after giving the employed person an opportunity for explanation.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage-period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but:—

- (1) no deduction for breaking contract can be made from a person under 15 or a woman;
- (2) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice;
- (3) the above provision must be displayed at or near the main entrance of the work place or places at the mine or work place;

- (4) no deduction of this nature can be made until a week's notice that this deduction is to be made has been posted at or near the main entrance of the work place or places at the mine or work place;
- (5) no deduction must exceed the wages of the employed person for the period by which the notice he gives of leaving employment, is less than the notice he should have given under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for house accommodation, amenities, or services (other than tools and raw material) supplied by the employer provided these are accepted by the employed person as a part of the terms of his employment and have in the case of amenities and services been authorised by order of the Central Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for travelling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster's discretion during employment.

14. Deduction can be made for subscription to and for repayment of advances from any recognised provident fund.

15. Deductions can be made for payments to co-operative societies approved by the Central Government or to the postal insurance, subject to any conditions imposed by the Central Government.

#### *Inspections*

16. An Inspector can enter on any premises and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

#### *Complaints of deductions or delays*

17. (a) Where irregular deductions are made from wages, or delays in payment take place, an employed person can make an application in the prescribed form within 6 months to the Authority appointed by the State Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(b) Any legal practitioner, official of a registered trade union, Inspector under the Act, or other person acting with the Authority can make the complaint on behalf of an employed person.

(c) A single application may be presented by, or on behalf of any number of persons belonging to the same mine the payment of whose wages has been delayed.

#### *Action by the Authority*

18. The Authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

#### *Appeal against the Authority*

19. An appeal in the prescribed form against a direction made by the Authority may be preferred within 30 days in Calcutta to the Court of Small Causes and elsewhere to the District Court—

(a) by the employer if the total amount directed to be paid exceeds Rs. 300;

(b) by an employed person, if the total amount of wages withheld from him or his co-workers, exceeds Rs. 50;

(c) by a person directed to pay a penalty for a malicious or vexatious application.



*Punishments for Breaches of the Act*

20. Anyone delaying the payment of wages beyond the due date, or making any unauthorised deduction from wages is liable to a fine upto Rs. 500, but only if prosecuted with the sanction of the Authority or the Appellate Court.

21. The employer who,—

- (1) does not fix a wage-period, or
  - (2) makes payment in kind, or
  - (3) fails to display at or near the main entrance of the work place or places at the mine or work place this Abstract in English and in the language of the majority of the employed persons, or
  - (4) breaks certain rules made under the Act, is liable to fine not exceeding Rs. 200.
- A complaint to this effect can be made only by the Inspector or with his sanction.

## FORM VII—(See rule 8)

Name of mine.....

Date from which wage rates will be or are enforced.....

Serial No.	Class of employees or description of work.	Rate of Wages		Allowances, if any	Remarks
		Rs. A. P.	Particulars of unit, e.g., per day per tub, etc.		
1	2	3	4	5	6

**Inspectors for Railways**

S.R.O. 771, dated the 6th October, 1950.—In exercise of the powers conferred by sub-section (2) of section 14 of the Payment of Wages Act, 1936 (IV of 1936), read with section 24 of that Act, and in supersession of the notification of the Government of India in the late Department of Labour, No. LR. 12(3)/II, dated the 29th August, 1945, the Central Government is pleased to appoint the undermentioned persons to be Inspectors in respect of all persons employed upon a Railway (otherwise than in a factory) to whom the said Act applies, namely:—

1. Chief Labour Commissioner (Central).
2. Regional Labour Commissioner (Central), Bombay.
3. Regional Labour Commissioner (Central), Calcutta.
4. Regional Labour Commissioner (Central), Kanpur.
5. Regional Labour Commissioner (Central), Madras.
6. Conciliation Officer (Central), Bombay.
7. Conciliation Officer (Central), Calcutta.
8. Conciliation Officer (Central), Madras.
9. Conciliation Officer (Central), Delhi.
10. Conciliation Officer (Central), Lucknow.
11. Conciliation Officer (Central), Poona.
12. Conciliation Officer (Central), Gauhati.
13. Conciliation Officer (Central), Nagpur.
14. Conciliation Officer (Central), Asansol.

## FAIR WAGE CLAUSE IN CENTRAL PUBLIC WORKS DEPARTMENT CONTRACTS<sup>1</sup>

(a) The Contractor shall pay not less than fair wage to labourers engaged by him on the work.

### Explanation.

"Fair wage" means wage whether for time or piece work notified at the time of inviting tenders for the work and where such wages have not been so notified, the wage prescribed by the Central P. W. D. for the district in which the work is done.

(b) The Contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid a fair wage to labourers indirectly engaged on the work including any labour engaged by his sub-contractors in connection with the said work, as if the labourers had been immediately employed by him.

(c) In respect of all labour directly or indirectly employed in the works for the performance of the Contractor's part of this Agreement, the Contractor shall comply with or cause to be complied with the Central Public Works Department Contractor's Labour Regulations made by Government in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions unauthorisedly made, maintenance of <sup>2</sup> [wage book, wage slips], publication of scale of wages and other terms of employment, inspection and submission of periodical returns and all other matters of a like nature.

(d) The Executive Engineer or Sub-Divisional Officer concerned shall have the right to deduct, from the moneys due to the Contractor, any sum, required or estimated to be required for making good the loss suffered by a worker or workers by reason of non fulfilment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his or their wages, which are not justified by their terms of the contract or non-observance of the Regulations.

(e) Vis-a vis the Central Government, the Contractor shall be primarily liable for all payments to be made under, and for the observance of the Regulations aforesaid without prejudice to his right to claim indemnity from his sub-contractors.

(f) The Regulations aforesaid shall be deemed to be a part of this contract and any breach thereof shall be a breach of this contract.

<sup>1</sup> The Government of India have been considering for some time past ways and means of improving and ensuring stricter compliance with the Fair Wage Clause already included in the standard form of agreement in force in Central P. W. D. contracts. This clause at present provides that the Contractor shall pay his labour not less than the wages paid for similar work in the neighbourhood. The intention of this clause was that the labour should be paid a fair wage and that the Contractors should not be allowed to force the construction labour by various devices to work for him at rates which were below the prevailing market rates for labour. In order to ensure the implementation of this object, the Government of India have now decided to introduce a revised clause in the Standard Forms of Agreement with Contractors providing that the wage rates to be paid by a Contractor employed on a Central P. W. D. contract (or by a sub-contractor working under that contractor) shall be so fixed (whether on time or piece) as to give to every man, woman or child employed on that work a daily wage notified at the time of calling for tenders. This wage will be the "fair wage"—i.e., the wage paid in the locality. The revised clause has been brought into effect from the 1st April, 1946. The Fair Wage Clause and the Central P. W. D. Contractor's Labour Regulations were formulated by the Labour Department, Government of India and circulated under Memo No. E-17 dated the 24th January, 1946 to all State Governments with the advice to adopt similar provisions in respect of labour employed on their works and also to all the Departments of the Government of India for information.

The Central Government have also decided to set up an adequate administrative system to ensure that the provisions of the Fair Wage Clause are duly complied with and orders sanctioning the necessary staff for this purpose are being issued.

The Central and several State Governments have fixed minimum rates of wages for building industry and the Fair Wage Clause is not as significant at present as it used to be before. The Central Government is also contemplating to amend the Payment of Wages Act for its application to contract labour.

<sup>2</sup> Inserted by the Ministry of Works, Housing and Supply Memo No. AG 174(15) dated the 22nd October, 1952.

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		Rs. A. P.	Particulars of unit, e.g., per day per tub, etc.		
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10. Conciliation Officer (Central), Lucknow.
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### Explanation.

"Fair wage" means wage whether for time or piece work notified at the time of inviting tenders for the work and where such wages have not been so notified, the wage prescribed by the Central P. W. D. for the district in which the work is done.

(b) The Contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid a fair wage to labourers indirectly engaged on the work including any labour engaged by his sub-contractors in connection with the said work, as if the labourers had been immediately employed by him.

(c) In respect of all labour directly or indirectly employed in the works for the performance of the Contractor's part of this Agreement, the Contractor shall comply with or cause to be complied with the Central Public Works Department Contractor's Labour Regulations made by Government in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions unauthorisedly made, maintenance of <sup>2</sup> [wage book, wage slips], publication of scale of wages and other terms of employment, inspection and submission of periodical returns and all other matters of a like nature.

(d) The Executive Engineer or Sub-Divisional Officer concerned shall have the right to deduct, from the moneys due to the Contractor, any sum, required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfilment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his or their wages, which are not justified by their terms of the contract or non-observance of the Regulations.

(e) Vis-a-vis the Central Government, the Contractor shall be primarily liable for all payments to be made under, and for the observance of the Regulations aforesaid without prejudice to his right to claim indemnity from his sub-contractors.

(f) The Regulations aforesaid shall be deemed to be a part of this contract and any breach thereof shall be a breach of this contract.

<sup>1</sup> The Government of India have been considering for some time past ways and means of improving and ensuring stricter compliance with the Fair Wage Clause already included in the standard form of agreement in force in Central P. W. D. contracts. This clause at present provides that the Contractor shall pay his labour not less than the wages paid for similar work in the neighbourhood. The intention of this clause was that the labour should be paid a fair wage and that the Contractors should not be allowed to force the construction labour by various devices to work for him at rates which were below the prevailing market rates for labour. In order to ensure the implementation of this object, the Government of India have now decided to introduce a revised clause in the Standard Forms of Agreement with Contractors providing that the wage rates to be paid by a Contractor employed on a Central P. W. D. contract (or by a sub-contractor working under that contractor) shall be so fixed (whether on time or piece) as to give to every man, woman or child employed on that work a daily wage notified at the time of calling for tenders. This wage will be the "fair wage"—i.e., the wage paid in the locality. The revised clause has been brought into effect from the 1st April, 1946. The Fair Wage Clause and the Central P. W. D. Contractor's Labour Regulations were formulated by the Labour Department, Government of India and circulated under Memo No. E-17 dated the 24th January, 1946 to all State Governments with the advice to adopt similar provisions in respect of labour employed on their works and also to all the Departments of the Government of India for information.

The Central Government have also decided to set up an adequate administrative system to ensure that the provisions of the Fair Wage Clause are duly complied with and orders sanctioning the necessary staff for this purpose are being issued.

The Central and several State Governments have fixed minimum rates of wages for building industry and the Fair Wage Clause is not as significant at present as it used to be before. The Central Government is also contemplating to amend the Payment of Wages Act for its application to contract labour.

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# CENTRAL PUBLIC WORKS DEPARTMENT CONTRACTOR'S LABOUR REGULATIONS, 1946

## Arrangement of Paragraphs

1. Short title.
2. Definitions.
3. Display of notices regarding wages, etc.
4. Payment of wages.
5. Fixation of wage-periods.
6. Works book and wage slips, etc.
7. Fines and deductions which may be made from wages.
8. Register of fines, etc.
9. Preservation of registers.
10. Powers of Labour Welfare Officers to make investigation or enquiry.
11. Report of Labour Welfare Officer.
12. Appeal against the decision of the Labour Welfare Officer.
- 12A. Prohibition regarding representation through lawyer.
13. Inspection of registers.
14. Submission of return.
15. Amendment.

# CENTRAL PUBLIC WORKS DEPARTMENT CONTRACTOR'S LABOUR REGULATIONS, 1946<sup>1</sup>

1. **Short title.**—These Regulations may be called “the Central Public Works Department Contractor's Labour Regulations”

2. **Definitions.**—In these Regulations, unless otherwise expressed or indicated the following words and expressions shall have the meaning hereby assigned to them respectively, that is to say:

- (i) “Labour” means workers employed by a Central Public Works Department Contractor directly, or indirectly through a sub-contractor or other person or by an agent on his behalf.
- (ii) “Fair Wages” means wages (whether for time or piece work) notified at the time of inviting tenders for the work and where such wages have not been so notified, the wages prescribed by the Central Public Works Department for the district in which the work is done
- (iii) “Contractor” shall include every person whether a sub-contractor or headman or agent, employing labour on the work taken on contract.
- (iv) “Wages” shall have the same meaning as defined in the Payment of Wages Act and includes time and piece-rate wages.

3. **Display of notices regarding wages, etc.,**—The Contractor shall—

(a) before he commences his work on contract, display and correctly maintain and continue to display and correctly maintain, in a clean and legible condition, in conspicuous places on the work, notices in English and in the local Indian language spoken by the majority of the workers, giving the rate of wages which have been certified by the Executive Engineer, the Chief Engineer or Regional Labour Commissioner, as fair wages and the hours of work for which such wages are earned, and

(b) send a copy of such notices to the Certifying Officers.

4. **Payment of wages.**—(1) Wages due to every worker shall be paid to him direct.

(2) All wages shall be paid in current coin or currency or in both.

5. **Fixation of wage periods.**—(1) The Contractor shall fix the wage period in respect of which the wages shall be payable.

<sup>1</sup> See the Footnote under Fair Wage Clause in Central P. W. D. Contracts.

At the direction of the Central Government, the Labour Bureau, Ministry of Labour made an *ad hoc* survey of the labour conditions in the Building and Construction Industry and its Report published in May, 1954 shows that the various rules and regulations relating to labour “are observed more in their breach than in their compliance” except Fair Wage Clause and C. P. W. D. Contractor's Labour Regulations.

(2) No wage period shall exceed one month.

(3) Wages of every workman employed on the contract shall be paid before the expiry of ten days, after the last day of the wage period in respect of which the wages are payable.

(4) When the employment of any worker is terminated by or on behalf of the Contractor, the wages earned by him shall be paid before the expiry of the second working day on which his employment is terminated.

(5) All payments of wages shall be made on a working day.

6. <sup>2</sup>[Wage book and wage slips], etc.—(1) The Contractor shall maintain a wage book of each worker in such form as may be convenient but the same shall include the following particulars:—

(a) Rate of daily or monthly wages.

(b) Nature of work on which employed.

(c) Total number of days worked during each wage period.

(d) Total amount payable for the work during each wage period.

(e) All deductions made from the wages with an indication in each case of the ground for which deduction is made.

(f) Wages actually paid for each wage period.

(2) The Contractor shall also maintain a wage slip for each worker employed on the work.

(3) The Executive Engineer may grant an exemption, from the maintenance of wage book and wage slips, to a Contractor who, in his opinion, may not directly or indirectly employ more than 50 persons on the work.

7. **Fines and Deductions which may be made from wages.**—(1) The wages of a worker shall be paid to him without any deductions of any kind except those authorised, namely:—

(a) Fines.

(b) Deductions for absence from duty, i.e., from the place or places where by the terms of his employment he is required to work. The amount of deductions shall be in proportion to the periods for which he was absent.

(c) Deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or fault.

<sup>3</sup>[(d) Any other deductions which the Central Government may from time to time allow].

(1A) The Central Government may, from time to time, allow deductions other than those specified in clause (1) above.

(2) No fines shall be imposed on a worker and no deductions for damage or loss shall be made from his wages until the worker has been given an opportunity of showing cause against such fines or deductions.

(3) The total amount of fines which may be imposed in any one wage-period on a worker shall not exceed an amount equal to half-an-anna in a rupee of the wages payable to him in respect of that wage-period.

(4) No fine imposed on any worker shall be recovered from him by instalments, or after the expiry of 50 days from the date on which it is imposed.

8. **Register of fines, etc.**—(1) The Contractor shall maintain a register of fines and of all deductions for damage or loss. Such register shall mention the reason for which fine was imposed or deduction for damage or loss was made.

(2) The Contractor shall maintain a list in English and in the local Indian language, clearly defining acts and omissions for which penalty or fine can be imposed. He shall display such list and maintain it in a clean and legible condition in conspicuous places on the work.

9. **Preservation of registers.**—The <sup>2</sup>[wage book, the wage slips] and the register of fines, deductions required to be maintained under these Regulations shall be preserved for 12 months after the date of the last entry made in them.

10. **Powers of Labour Welfare Officers to make investigation or enquiry.**—The Labour Welfare Officer or any other person authorised by the Central Government on their behalf shall have power to make enquiries with a view to ascertaining and enforcing due and

<sup>2</sup> Inserted by the Ministry of Works, Housing and Supply Memo. No. AG 174(15) dated the 22nd October, 1952.

<sup>3</sup> Inserted by the Ministry of Works, Mines and Power Memo. No. Est. 17 dated the 4th March, 1947.

proper observance of the Fair Wage Clauses and the provisions of these Regulations. He shall investigate into any complaint regarding the default made by the Contractor or sub-contractor in regard to such provisions.

**11. Report of Labour Welfare Officer.**—The Labour Welfare Officer or other person authorised as aforesaid shall submit a report of the result of his investigation or enquiry to the Executive Engineer concerned, indicating the extent, if any, to which the default has been committed, with a note that necessary deductions from the Contractor's bill be made and the wages and other dues be paid to the labourers concerned. In case an appeal is made by the Contractor under clause 12 of these Regulations, actual payment to the labour will be made by the Executive Engineer after the Regional Commissioner has given his decision on such appeal.

**12. Appeal against the decision of Labour Welfare Officer.**—Any person aggrieved by the decision and recommendation of the Labour Welfare Officer or other person so authorised, may appeal against such decision to the Regional Labour Commissioner within 30 days from the date of decision forwarding simultaneously a copy of his appeal to the Executive Engineer concerned, but subject to such appeal, the decision of the Officer shall be final and binding upon the Contractor.

**4[12A. Prohibition regarding representation through lawyer.**—No party shall be allowed to be represented by a lawyer during any investigation, enquiry, appeal, or any other proceedings under these Regulations.]

**13. Inspection of registers.<sup>5</sup> \* \***—The Contractor shall allow inspection of the registers<sup>5</sup> \* \* to any of his workers or to his agent at a convenient time and place after due notice is received, or to the Labour Welfare Officer or any other person authorised by the Central Government on his behalf.

**14. Submission of return.**—The Contractor shall submit periodical returns as may be specified from time to time.

**15. Amendment.**—The Central Government, may from time to time, add to or amend these Regulations and on any question as to the application, interpretation or effect of these Regulations the decision of the Chief Labour Commissioner to the Government of India, or any other person authorised by the Central Government in that behalf shall be final.

## INDEBTEDNESS LEGISLATION

### Indebtedness: Causes and Suggested Remedies

Some of the main causes of indebtedness amongst industrial workers are the expenditures incurred by them in connection with social and religious purposes such as births, deaths, marriages, festivals, etc. and periods of unemployment due to illness, strike, dismissal, etc. The Labour Investigation Committee in their Main Report published in 1946 pointed out that indebtedness in some cases might be due to improvidence and vice, but "in the majority of cases, indebtedness has a great deal to do with the low earnings of workers which leave them little, if any margin at all, to meet any extraordinary calls, on their income such as sickness, death, marriages, ceremonies, festivals, etc. It is commonly supposed that the worker gets indebted because of his improvidence, but a closer analysis would suggest that this is true only to a limited extent."<sup>1</sup> In the opinion of the Committee the more fundamental need is that the worker should be able to earn enough not only to meet his day to day wants but to have some margin for saving which

<sup>4</sup> Inserted by Min. of W. H. & S. Memo No. AG 174(16) dated the 7th February, 1953.

<sup>5</sup> The words "and cards" omitted by Min. of W. H. & S. Memo. No. AG 174(15) dated the 22nd October, 1952.

Note—(1) The expressions "certified" and "notified" used in paras 3(a) of Regulations and (a) of Fair Wage Clause do not refer to one and the same act. The notified wages are wages prescribed, before tenders are invited which are later certified to be fair i.e., neither high nor low. (2) Monies deducted by Central Public Works Department officials under para (d) of the Fair Wage Clause should be transferred to the workers concerned.

(Vide the Ministry of Works, Mines & Power Memo No. Est. 17 dated 4-3-47.)

<sup>1</sup> Labour Investigation Committee, Main Report, p. 369.

can be utilised not only for unforeseen expenditure but also for certain conventional necessities and social obligations.

The effect of indebtedness is not confined to hardship caused by the loss of money alone but it is a severe drag on the health; it destroys the incentive to work and impairs the efficiency of industrial workers and is responsible for low standard of living. Indebtedness is not confined to industrial workers alone but its existence is fairly noticeable amongst the agriculturists in India. But the position of an industrial worker is quite different from that of an agriculturist. The agriculturist is a local man and can offer security if required but this is not possible for the industrial worker as he is not a permanent resident of the locality and as such he is rather compelled to pay particularly high rates of interest.

Various measures have been adopted or proposed, from time to time, to check the indebtedness of the agricultural worker and to improve his condition. Legislations have been enacted with the object of restricting the transfer by sale or mortgage of agricultural land to non-agriculturist. Measures have been undertaken to check usury by legislation and the leading measure of general application is the Usurious Loans Act of 1918. This Act, as amended in 1926, provides that, in a proceeding for the recovery of a loan, the Court, if satisfied that the interest claimed was excessive and that the transaction was substantially unfair, may reopen the contract and grant an equitable decree. The Agricultural Commission in their Report in 1928 expressed the hope that the salvation of the rural masses from their crushing burden of debt would rest in the growth and spread of a healthy and well organised co-operative movement based on the careful education and systematic training of the villagers themselves.

The Royal Commission on Labour also made a series of recommendations for mitigating the evils of indebtedness, which have been acted upon by the Central and some State Governments.

### 1. Attachment of Salaries and Wages

The attachment of salaries and wages for debts incurred is a major evil from which industrial workers have to suffer. Section 60 of the Civil Procedure Code, 1908 permitted the attachment of wages and the money lender could attach the wages of all workers except labourers and domestic servants. In respect of certain classes of employees, viz., railway servants and employees under local authority, the law authorised the employers, at the instance of the money lender, to deduct from the salaries and wages of the employees every month and pay the amount to Court till the decree obtained by the money lender was fully satisfied. The comparative security of railway service induced many money lenders to grant loans to the railway servants and it appeared that the level of indebtedness in terms of wages was higher amongst railway servants than amongst industrial workers as a whole. The Royal Commission on Labour in India in their Report published in 1931 drew attention to this defect and recommended that the salaries and wages of every workman receiving less than Rs. 300/- a month should be exempted entirely from the possibility of attachment. With a view to give effect to this recommendation, the Central Government introduced a Bill on the 18th February, 1935 to amend Section 60 of the Code of Civil Procedure, 1908 and the Bill was finally passed in February, 1937, as the Code of Civil Procedure (Second Amendment) Act, 1937 (IX of 1937). The Act became applicable to decrees obtained on or after 1st of June, 1937. The Amending Act provides for the exemption of attachment of wages of labourers and domestic servants whether payable in money or kind as well as salary to the extent of first hundred rupees and one half of the remainder. The salary of the Government employees, railway employees or employees of the local authority to the extent of the first 100 rupees and one half of the remainder shall be exempt from attachment, but where the whole or any



portion of such salary liable to attachment has been under attachment whether continuously or intermittently for a total period of 24 months, such portion shall be exempt from attachment until the expiry of a further period of 12 months and where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment for the execution of the same decree. The Central Government, may, by notification in the Gazette of India, declare any allowance forming part of emoluments of any servant of the Government, railway company or local authority or any subsistence grant or allowance made to any such servant while under suspension, exempt from attachment.

## **2. Imprisonment for Debt**

The threat for imprisonment for debt was a useful weapon in the hands of the money lender. Section 51 of the Civil Procedure Code, 1908 permitted imprisonment for debt and male debtors were liable to be arrested and imprisoned for six months in execution of a decree for payment of more than Rs. 50/- and for six weeks in case of smaller sums. The Royal Commissioner on Labour recommended that in the case of industrial workers in receipt of salaries or wages amounting to less than Rs. 100/- a month, imprisonment for debt should be abolished except where the debtor has been proved to be both able and unwilling to pay.

The Central Government decided to implement the recommendation of the Royal Commission on Labour but broadened the scope of the legislation to include all classes of debtors. An Amending Bill further to amend Section 51 of the Civil Procedure Code, 1908 was introduced and passed as the Code of Civil Procedure (Amendment) Act, 1936 (XXI of 1936). The Amending Act provides that no order for execution by detention in prison shall be issued by the Court unless the debtor has been given opportunity of showing cause why he should not be committed to prison and the Court is satisfied that the debtor is likely to obstruct or delay execution of the decree or abscond or leave the local limits of the Court's jurisdiction or where there has been a fraudulent transfer of property.

The Punjab Government enacted the Punjab Relief of Indebtedness Act in 1934 (Punjab Act VII of 1934) before the legislation was undertaken by the Central Government. The Act came into force on 1st April, 1935 and was mainly designed for the protection of agricultural debtors. Under the Act no judgment debtor can be imprisoned unless he refuses to pay a sum within his capacity from such property as is liable to attachment in execution of a decree.

## **3. Prohibition of Intimidation**

Intimidation for recovery of debt is another great evil to which industrial workers are subjected. There are many money lenders who use intimidation and depend upon the threat of violence instead of taking any legal proceeding to realise the debt. They wait outside the factory gate on pay date to pounce upon the debtors as they emerge. The object of these money lenders is to ensure that their claim forms the first charge on the wages of the industrial workers. The Royal Commission on Labour recommended that besetting an industrial establishment for the recovery of debt should be made a criminal and cognisable offence and defined besetting "as loitering within the precincts or near or within the sight of any gate or outlet of the establishment."

The Central Government consulted the State Governments and interested public and came to the decision of not enacting a Central legislation on the basis of the recommendation of the Royal Commission on Labour.

The Government of Bengal was strongly in favour of the proposed measure and enacted the Bengal Workmen's Protection Act in 1934 (Bengal Act IV of 1935) to prevent the recovery of debts from certain classes of workmen by besetting their places of work. The Act provides that any person loitering at or near any

factory, mine, dock, wharf or jetty, railway station or yard with a view to recover any debt from any person employed therein, shall be liable to be punished with imprisonment which may extend to six months or with fine or both. The provisions of the Act have been extended in the first instance, to Calcutta and the districts of 24-Parganas, Hooghly and Howrah, but the State Government may extend its scope to other specified areas. The Act was amended in 1940 to extend its scope to seamen and workmen employed by local authorities or public utility services.

The Government of Madhya Pradesh enacted more or less similar legislation called the Central Provinces Protection of Debtors Act in 1937 (IV of 1937). The Act is wider in scope and defines molestation to mean obstruction, violence, intimidation, persistent following of debtors and loitering at or near his residence or place of work. The offence for molestation will be punished with imprisonment extending to three months or a fine extending to Rs. 500/- or both. In the opinion of the Labour Investigation Committee, "these Acts do not appear to have had any tangible effect."

The Government of Madras passed the Madras Workmen's Protection Act in 1941 which is more or less on similar lines.

The Government of Bihar enacted the Bihar Workmen's Protection Act in 1948 (Bihar Act XXXIII of 1948). The Act prevents the recovery of debts from certain classes of workmen by besetting the places where they work or receive their wages and protects such workmen from molestation and intimidation by their creditors. The offence of besetting is liable to be punished with imprisonment up to six months or with fine or both.

The Government of Uttar Pradesh is considering to enact similar legislation.

The Labour Investigation Committee desired that other State Governments should adopt as soon as possible legislation to prevent besetting.

#### 4. Liquidation of Debts

The excessive rate of interest charged by the money lenders affects both the income and standard of living of the industrial workers. The Royal Commission on Labour recommended a new procedure bearing some resemblance to the proceedings in insolvency courts, for liquidation of worker's unsecured debts and suggested the possibility of appointing Special Courts like Workmen's Compensation Courts for summary liquidation proceedings. The Commission recommended to frame a precise definition of industrial workers and to limit the operation of the Act to special areas and to workers receiving wages of less than Rs. 100/- per month.

The Government of Madhya Pradesh enacted the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act in January, 1936, which came into force on the 1st January, 1937. The Act is applicable to any industrial worker earning up to Rs. 50/- per month and entitles him to file a petition in Court for liquidation of his debt if the debt exceeds his assets and three months' wages. The Court after enquiring into the facts of the case and after giving due consideration to the worker's wages and the number of his dependants, will decide the monthly amount ranging from one-sixth to one-third, which the worker should repay within a reasonable time. The State Government subsequently felt that the monthly income up to Rs. 50/- was too low and introduced an Amending Bill in the State Legislature in March, 1951 to raise the limit to Rs. 90/-.

The Labour Investigation Committee desired that other State Governments should enact similar legislations to liquidate the debts of industrial workers.

# CODE OF CIVIL PROCEDURE, 1908 (V OF 1908) (EXTRACTS)

## Arrangement of Sections

### PRELIMINARY

1. Short title, commencement and extent.
2. Definitions.

### PART II—PROCEDURE IN EXECUTION

51. Powers of Court to enforce execution.

### ATTACHMENT

60. Property liable to attachment and sale in execution of decree.

# CODE OF CIVIL PROCEDURE, 1908 (V OF 1908) (EXTRACTS)<sup>1</sup>

*An Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature.*

[21st March, 1908.]

Whereas it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature: It is hereby enacted as follows:—

### PRELIMINARY

**1. Short title, commencement and extent.**—(1) This Act may be cited as the Code of Civil Procedure, 1908.

(2) It shall come into force on the first day of January, 1909.

<sup>2</sup>[(3) It extends to the whole of India except—

- (a) the Tribal Areas in the State of Assam;
- (b) save as hereinafter provided, the Scheduled Areas in the State of Madras;
- (c) the State of Jammu and Kashmir; and
- (d) the State of Manipur:

Provided that sections 36 to 43 and Order XXXIV in the First Schedule shall extend also to the Amindivi Islands and the East Godavari, West Godavari and Visakhapatnam Agencies in the State of Madras, and section 48 shall extend also to the said Agencies.]

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(2)“decree” means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144, but shall not include—

- (a) any adjudication from which an appeal lies as an appeal from an order, or
- (b) any order of dismissal for default.

**Explanation.**—A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final:

(3) “decree-holder” means any person in whose favour a decree has been passed or an order capable of execution has been made:

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1907, Pt. V. p. 179.

<sup>2</sup> Subs. by the Code of Civil Procedure (Amendment) Act, 1951 (2 of 1951), s. 2 for the former clause (3).

(10) "judgment-debtor" means any person against whom a decree has been passed or an order capable of execution has been made:

## PART II—PROCEDURE IN EXECUTION

**51. Powers of Court to enforce execution.**—Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree—

- (a) by delivery of any property specifically decreed;
- (b) by attachment and sale or by sale without attachment of any property;
- (c) by arrest and detention in prison;
- (d) by appointing a receiver; or
- (e) in such manner as the nature of the relief granted may require:

<sup>3</sup>[Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

- (a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—
  - (i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or
  - (ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property; or
- (b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or
- (c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

*Explanation.*—In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.]

\* \* \* \* \*

## ATTACHMENT

**60. Property liable to attachment and sale in execution of decree.**—(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

<sup>3</sup> Ins. by the Code of Civil Procedure (Amendment) Act, 1936 (21 of 1936), s. 12.

<sup>4</sup> For amendment to s. 60, in its application to East Punjab, see the Punjab Relief for Indebtedness Act, 1934 (Punjab Act 7 of 1934), s. 35, as amended by Punjab Acts 12 of 1940 and 6 of 1942.

Provided that the following particulars shall not be liable to such attachment or sale, namely:—

- (a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him;
- (d) books of account;
- (e) a mere right to sue for damages;
- (f) any right of personal service;
- (g) stipends and gratuities allowed to <sup>5</sup>[pensioners of the Crown], or payable out of any service family pension fund<sup>6</sup> notified in the <sup>7</sup>[Official Gazette] by the <sup>8</sup>[Central Government] or the <sup>8a</sup>[State Government] in this behalf, and political pensions;
- <sup>9</sup>[(h) the wages of labourers and domestic servants, whether payable in money or kind; <sup>10</sup>\* \* \*]
- <sup>11</sup>[(i) salary to the extent of the first hundred rupees and one-half the remainder:

Provided that where such salary is the salary of a servant of the Crown or a servant of a railway company or local authority, and the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;]

- (j) the pay and allowances of persons to whom the <sup>12</sup>[Army Act, 1950] applies, <sup>13</sup>[or of persons other than commissioned officers to whom <sup>14</sup>\* \* \* \* the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), applies];

<sup>5</sup> Subs. by the A. O. 1937 for "pensioners of the Government".

<sup>6</sup> For such a notification, see Gazette of India, 1909, Part I, page 5.

<sup>7</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>8</sup> Subs. by the A. O. 1937 for "Governor General in Council".

<sup>8a</sup> Subs. for "Provincial Government" by the A.O. 1950.

<sup>9</sup> Subs. by the Code of Civil Procedure (Second Amendment) Act, 1937 (9 of 1937), s. 2 for the former clauses (h) and (i). The amendments made by that section have no effect in respect of any proceedings arising out of a suit instituted before 1st June, 1937; see *ibid.*, s. 3.

<sup>10</sup> The words "and salary, to the extent of the first hundred rupees and one-half the remainder of such salary" rep. by the Code of Civil Procedure (Amendment) Act, 1943 (5 of 1943), s. 2.

<sup>11</sup> Subs. by s. 2, *ibid.*, for the former clause and proviso.

<sup>12</sup> Subs. for "The Indian Army Act, 1911, or the Burma Army Act" by s. 10 of the Code of Civil Procedure (Amendment) Act, 1951 (2 of 1951).

<sup>13</sup> Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

<sup>14</sup> The words "the Naval Discipline Act as modified by" rep. by the A. O. 1950.

- (k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act <sup>15</sup>[1925] (XIX of 1925), for the time being applies in so far as they are declared by the said Act not to be liable to attachment;
- <sup>16</sup>[(l) any allowance forming part of the emoluments of any <sup>17</sup>[servant of the Crown] or of any servant of a railway company or local authority which the <sup>18</sup>[appropriate Government] may by notification in the <sup>19</sup>[Official Gazette] declare to be exempt from attachment, and any subsistence grant or allowance made to <sup>20</sup>[any such servant] while under suspension;]
- (m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;
- (n) a right to future maintenance;
- (o) any allowance declared by <sup>21</sup>[any Indian law] to be exempt from liability to attachment or sale in execution of a decree; and,
- (p) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

<sup>22</sup>[*Explanation 1*].—The particulars mentioned in clauses (g), (h), (i), (j), (l) and (o) are exempt from attachment or sale whether before or after they are actually payable, <sup>23</sup>[and in the case of salary other than salary of a <sup>17</sup>[servant of the Crown] or a servant of a railway company or local authority the attachable portion thereof is exempt from attachment until it is actually payable].

<sup>24</sup>[*Explanation 2*].—In clauses (h) and (i), “salary” means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (l), derived by a person from his employment whether on duty or on leave.]

<sup>25</sup>[*Explanation 3*].—In clause (l) “appropriate Government” means—

- (i) as respects any <sup>26</sup>[person] in the service of the Central Government, or any servant of <sup>27</sup>[a railway administration] or of a cantonment authority or of the port authority of a major port, the Central Government;

27\* \* \* \*

- (iii) as respects any other <sup>17</sup>[servant of the Crown] or a servant of any other<sup>28</sup> \* \* \* local authority, the <sup>29</sup>[State] Government.]

<sup>15</sup> Subs. by the Code of Civil Procedure (Second Amendment) Act, 1937 (9 of 1937).

<sup>16</sup> Subs. by s. 2, *ibid.*, for the original clause. See also Footnote 9 at page 898 ante.

<sup>17</sup> Subs. by the Code of Civil Procedure (Amendment) Act, 1943 (5 of 1943), s. 2, for “public officer.”

<sup>18</sup> Subs. by the A. O. 1937 for “Governor General in Council”.

<sup>19</sup> Subs. by the A. O. 1937 for “Gazette of India”.

<sup>20</sup> Subs. by Act 5 of 1943, s. 2, for “any such officer or servant”.

<sup>21</sup> Subs. by the A. O. 1937 for “any law passed under the Indian Councils Act, 1861 and 1892”.

<sup>22</sup> The original Explanation was renumbered Explanation 1 by the Code of Civil Procedure (Second Amendment) Act, 1937 (9 of 1937), s. 2.

<sup>23</sup> Ins. by s. 2, *ibid.* See also Foot-note 9 at page 898 ante.

<sup>24</sup> Subs. by the Code of Civil Procedure (Amendment) Act, 1943 (5 of 1943), s. 2, for “public officer”.

<sup>25</sup> Ins. by the A. O. 1937.

<sup>26</sup> Sub. by the A. O. 1950 for the words “a Federal Railway”.

<sup>27</sup> Cl. (ii) rep. by the A. O. 1948.

<sup>28</sup> The words “railway or” omitted by the A. O. 1950.

<sup>29</sup> Subs. by the A. O. 1950 for “Provincial”.

(2) Nothing in this section shall be deemed—

<sup>30\*</sup> to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land.<sup>30\*</sup>

<sup>30\*</sup> \* \* \* \* \*

## MINIMUM WAGE LEGISLATION

### Minimum Wage Legislation in Advanced Countries

The need for fixing minimum wages for industrial labour has everywhere been recognised in modern states, specially in sweated industries and in industries where workers are not organised and where their position is exploited by the employers. In England legislation was passed in 1909 for fixing minimum wages in a certain group of industries. The U. K. Trade Boards Act of 1909 provides for wage fixing machinery in those trades where the rate of wages is exceptionally low in comparison with other employments. The Trade Boards Act of 1918 authorised the Minister of Labour to appoint Trade Boards in any trade if he was of opinion that there was no adequate machinery for effective regulation of wages throughout the trade. The New Zealand Industrial Arbitration Act of 1894 provides for regulation of wages for the purpose of settlement of industrial disputes. The first minimum wage legislation was undertaken in 1912 in U. S. A. and in 1915 in France. The American Fair Labour Standards Act of 1938 fixes a statutory wage rate for workers employed in industries, in and affecting inter-State commerce and prevents unfair competition amongst employers engaged in the industries.

### International Standards for Minimum Wage

In 1928, the International Labour Conference adopted Convention No. 26 and Recommendation No. 30 dealing with minimum wage-fixing machinery in trade and commerce. The Convention provides for establishment of wage-fixing machinery whereby minimum rates of wages can be fixed for workers employed in certain trades. The representatives of employers and employees should be associated on equal terms at the time of fixing minimum wages and the wages thus fixed are binding on both and cannot be changed without the sanction of the competent authority. The Recommendation provides that such machinery should investigate into the relevant conditions in the trades and take into account the rates of wages paid for similar works in trades where collective agreements have been concluded.

### Minimum Wage Regulation in India

The question of fixing minimum wages was felt in India as early as the beginning of the twenties; but the Government of India considered the adoption of such a measure as impracticable and could not take steps to do something practical in this connection. The necessity of fixing minimum wages for labour is all the more important in India, as the labour is very cheap and unorganised and lacks the habit of collective bargaining in their demand for a living wage. The conditions of employment, wages and demand and supply of labour in different parts of India are divergent. Wages vary from State to State, from industry to industry and from occupation to occupation. The question of standardisation of wage rates for the different occupations, regulation of wages and fixation of minimum rates of wages constitute the most important problems relating to industrial

<sup>30</sup> The letter and brackets "(a", the word "or" and cl. (b), rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

labour in India. This question is also closely co-related with the maintenance of industrial peace, as wages represent the main point round which majority of industrial disputes are centred.

### **Royal Commission on Labour in India**

The Commission considered the question of fixing minimum wages and recommended that necessary investigation should be made in respect of small industries like bidi making, wool-cleaning, mica factories, shellac manufacturing and tanning, for determining the necessity and possibility of minimum wage-fixing machinery and that legislation should be undertaken to set up such machinery if the investigation report recommends its desirability and practicability. The Commission recommended the establishment of Statutory Wage Board for fixing wages in tea plantations in Assam.<sup>1</sup>

### **Different Provincial Labour Enquiry Committees <sup>2</sup>**

The Royal Commission commented on the inadequacy of statistical materials on wages. Cawnpore Labour Enquiry Committee, Bombay Textile Labour Enquiry Committee, Bihar Labour Enquiry Committee, C. P. and Berar Textile Labour Enquiry Committee and U. P. Labour Enquiry Committee in course of their enquiries surveyed the wage level of workers engaged in various types of industrial undertakings and advocated fixation of minimum wages. The Bombay Textile Labour Enquiry Committee suggested the following four different types of agencies by which minimum wages can be determined:—enactment, arbitration court, general board and special trade board. These four methods were discussed in details by Dr. D. R. Gadgil in his Patna University Banaili Readership Lectures, 1939-40.<sup>3</sup>

### **Labour Investigation Committee**

The Labour Investigation Committee (commonly known as Rege Committee) appointed by the Government of India early in 1944 in pursuance of an unanimous resolution of the Tripartite Labour Conference passed in September, 1943, collected a huge mass of valuable statistical data relating to wages and earnings of all industrial and allied categories of employment throughout British India and Native States. The Committee submitted Reports on *ad hoc* surveys of some 35 industries and also a Main Report. The position in respect of wages and earnings in various industries have been discussed in details in these Reports and their surveys reveal the low level of remuneration earned by labour in India in practically all industries excepting the cotton mill industry in Ahmedabad where wages have been standardised. The Committee concluded: "Our surveys, however, will bring home to any reader the fact that the basic wage level in most Indian industries is extremely low. As a matter of fact, considering the question broadly, little or nothing has been done by the principal industries in this country to revise in an upward direction the basic wages of their operatives except where the employers have been forced either by Government or by labour."

### **Central Pay Commission**

The Government of India appointed a Central Pay Commission on 10th May, 1946 to enquire into and report on the conditions of service of Central Government employees with particular reference, amongst others, to the structure of their pay scales and standards of remuneration with the object of achieving, to the fullest

<sup>1</sup> Royal Commission on Labour in India, 1931, pages 214 and 394.

<sup>2</sup> Reports of Cawnpore Labour Enquiry Committee, 1938; Bombay Textile Labour Enquiry Committee, 1940; Bihar Labour Enquiry Committee, 1940; C. P. and Berar Textile Labour Enquiry Committee, 1940 and U. P. Labour Enquiry Committee, 1946-48.

<sup>3</sup> Regulation of Wages and Other Problems of Industrial Labour in India, Gokhale Institute of Politics and Economics Publication No. 9, 1945.



degree possible, rationalisation and the principles on which the remuneration of industrial workers and daily rated employees Government should be based.

The Commission recommended the adoption of uniform scales of pay and dearness allowance all over India with house rent allowance and compensatory allowance in large towns and industrial centres. The scales of pay have been computed on the basis that when the cost of living will stabilise, they will be from 60% to 75% higher than the pre-war level. The Commission recommended the initial pay of a Class I officer at Rs. 350/- per month and fixation of Rs. 2,000/- as the maximum monthly salary of public servants in India, except for a few select posts. It also recommended the payment of dearness allowance in order to bring the total emoluments to correspond with the present day cost of living and suggested a "slab system" under which the dearness allowance would increase or decrease according to the rise or fall of cost of living indices. The Commission recommended that as far as practicable a fair relativity should be maintained between rates of pay of certain classes of civil servants and comparable outside rates.

The Commission recommended that the Government should take some step forward in giving effect to the "living wage" principle in dealing with the employees who are virtually on the "poverty line" and came to the conclusion that in no case a man's wage should be less than a living wage. This living wage would be Rs. 55/- (Rs. 30/- as basic pay plus Rs. 25/- as dearness allowance) for working class family and Rs. 90/- (Rs. 55/- as basic pay plus Rs. 35/- as dearness allowance) in the case of middle class employees, calculated on the cost of living as it stood in the beginning of 1947, apart from house rent allowance in big cities and certain other benefits. It also recommended that the daily rated system for labour should be reduced to a minimum and that the higher groups of labour (including supervisory staff) should be classified into semi-skilled, skilled and highly skilled according to trade tests. The Report states, "it will be convenient if each industrial establishment constitutes a Board, say of three of its officers, to determine the classification which should be reviewed, from time to time." According to Dr. R. K. Mukherjee, the living wage of a worker is Rs. 30/- on the basis of the prices in 1931-32.<sup>4</sup>

### **Government Acceptance of Pay Commission's Recommendations**

The Report of the Central Pay Commission constitutes as a landmark as the principles and practices recommended therein have been accepted as authoritative by different Adjudicators. The Government of India have accepted the basic pay structure recommended by the Commission as well as the uniform scales of pay, dearness allowance, house rent and compensatory allowance in costlier cities. The amount of dearness allowance will be subject to alterations, upwards or downwards should the cost of living vary substantially. The Government have also accepted the living wages for working class family and middle class family. Rs. 55/- including dearness allowance at Rs. 25/- per month, will constitute the lowest wage for a Central Government servant at the present cost of living index with the exception of unskilled workers under 21 years of age who will draw one rupee less for each year by which they fall short of 21. In accepting the recommendations the Government estimates an additional cost of Rs. 30 crores per annum.

The basic wages and allowances fixed by the Central Government for ensuring a living wage to their employees, will be looked upon as a model for State Governments and private enterprise in their respective spheres.

### **Minimum Wages Bill, 1946**

The question of establishing statutory wage-fixing machinery was discussed at the third meeting of the Standing Labour Committee in May, 1943, in the Fifth Labour

Conference in September, 1943 and again at the fourth meeting of the Standing Labour Committee held on 25th and 26th January, 1944 and at the Sixth Labour Conference held on 27th and 28th October, 1944. In the previous discussions it was suggested that fixation of statutory minimum wages could not be undertaken unless reliable and extensive materials regarding wages and earnings in various industries were available. Setting up of Regional Wage Boards for fixing statutory minimum wages for industrial labour was also discussed and general consensus of opinion was in its favour.

The Government of India introduced the Minimum Wages Bill in the Indian Legislative Assembly on the 11th April, 1946 for setting up machinery for fixing minimum wages by Provincial Governments in respect of employments where sweated labour is most prevalent or where there is chance of exploitation of labour, by mentioning these industries in the Schedule with power to add more categories of employment in the Schedule. The Bill provides for appointment of Advisory Committees and Advisory Boards with equal representation of employers and workmen to advise the Government in fixing the minimum wages. The Bill was referred to the Select Committee in March, 1947 and the Committee was reconstituted in the first session of the Dominion Legislature in November, 1947. The Committee made certain amendments and added several new clauses in the Bill and submitted the Report on the 28th January, 1948. In piloting the Bill in the Dominion Legislature, the Labour Minister pointed out that no industry, including agriculture had any right to exist if it entailed the exploitation of the working classes and could not afford them a minimum wage. The Bill was passed by the Dominion Legislature on the 9th February, 1948. The Act has come into force from the 15th March, 1948 and covers all States of India except the State of Jammu and Kashmir.

### **Minimum Wages Act, 1948 (XI of 1948)**

This legislation is the first of its kind in affording a great measure of income security to industrial labour in India. The Act, if properly enforced, will upgrade the level of wages of the workers in unorganised industries, particularly agricultural labour whose bargaining power is weak and will help to bring an era of rising income and prosperity.

The Act empowers the State or Central Government, as the case may be, to fix minimum rates of wages in respect of scheduled employments, after due enquiries. Part I of the Schedule includes employment in (1) woollen carpet making or shawl weaving establishment, (2) any rice mill, flour mill or dal mill, (3) any tobacco (including bidi making) manufactory, (4) plantation, *viz.*, estate maintained for the purpose of growing cinchona, rubber, tea or coffee, (5) oil mill, (6) under any local authority, (7) road and building constructions, (8) stone breaking or stone crushing, (9) lac industry, (10) mica works, (11) public motor transport, (12) tanneries and leather manufactory. Part II of the Schedule includes agriculture including farming, dairy, horticulture, poultry, forestry or timber operations. The Act authorises the appropriate Government to extend its application to any industry wherein, in their opinion, statutory minimum wages should be fixed.

### **Enforcement and Extension of Time Limit**

Minimum rates of wages in respect of all industries excepting agriculture are to be fixed within two years from the date of the commencement of the Act, *viz.*, 15th March, 1948 and in the case of agriculture, within three years.

The Central Government and most of the State Governments were unable to fix minimum rates of wages for the employments specified in the Act by the stipulated date. The Central Government promulgated the Minimum Wages (Extension

of Time) Ordinance (XVII of 1950) in June, 1950 extending for one year the stipulated date for fixing the minimum rates of wages in respect of employments other than agriculture and in case of employments subsequently included in the Schedule by a notification under the provisions of the Act, two years from the date of such notification. Minimum Wages (Amendment) Act, 1950 (LVI of 1950) replaced the Ordinance and extended the time limit to three years both in respect of employments mentioned in Parts I & II of the Schedule.

This time limit was further extended to 31st March, 1952 for employments other than agriculture (Part I of the Schedule) and 31st December, 1953 for agricultural labour (Part II of the Schedule) by the Minimum Wages (Amendment) Act, 1951 (XVI of 1951).

Many of the States, specially Part B States to which the Act was extended by the Part B States (Laws) Act, 1951 (III of 1951) with effect from the 1st of April, 1951, were not able to fix minimum wages in all cases. Some of the States fixed minimum wages after 31st March, 1952, which were not valid under the law. In order to remove the legal difficulties and to give some more time to the States for enforcing the provisions of the Act, the Central Government introduced the Minimum Wages (Amendment) Bill in the Parliament on the 23rd February 1953, which was passed as the Minimum Wages (Amendment) Act, 1954 and received assent of the President on the 20th May, 1954. The Amending Act extends the time limit for fixation of minimum wages in employments specified in Parts I and II of the Schedule, to 31st December, 1954 and authorises the appropriate Government not to apply the provisions of the Act to any class of employees who are in receipt of wages exceeding the prescribed limit.

### **Fixing of Minimum Rates of Wages**

The Act provides for fixation of different minimum rates of wages for time work, piece work, overtime work for different scheduled employments, for different class of work in the same employment, for adults, adolescent, children and apprentices and for different localities. The minimum rate fixed or revised may consist of (1) a basic rate of wages and a cost of living allowance, (2) a basic rate of wages with or without the cost of living allowance and cash value of concessions for supply of essential commodities or (3) an all-inclusive rate.

The appropriate Government is also empowered, in regard to any scheduled employment in respect of which minimum wages have been fixed (1) to fix the number of hours of work per day, (2) to provide for a weekly holiday and (3) to provide for payment of overtime wages.

### **Procedure to be followed**

In fixing the minimum rates of wages of any scheduled employment, the Government may appoint a Committee to hold enquiries with Sub-Committees for different localities to assist it and publish its proposals regarding the rates of wages to be paid, giving two months time for filing objections or representations. These minimum rates shall come into force on the expiry of three months from its publication in the official Gazette.

### **Revision of Minimum Rate**

The rate of wages so fixed shall be reviewed at any time not exceeding five years and revised, if necessary. But before revising such rates, the Government should appoint Advisory Committees and Sub-Committees to enquire into the conditions of employment and to advise the Government in making revision. The revised rate shall come into force three months after publication.

### **Central Advisory Board and State Advisory Boards**

The Act requires the Central Government to set up a Central Advisory Board for the purpose of advising the Central and State Governments in the matter of fixing and revising the minimum rates of wages and for co-ordinating the work of the Advisory Boards. The Central Advisory Board will consist of an equal number of the representatives of employers and employees and independent persons not exceeding one-third of the total number of members.

The State Government may appoint Advisory Board for co-ordinating the work of the Committees, Sub-Committees, Advisory Committees and Advisory Sub-Committees and for advising the State Government for fixing and revising the minimum rates of wages. The Advisory Board will consist of equal number of employers' and workers' representatives and independent persons not exceeding one-third of the total number of members. Most of the State Governments have already appointed Advisory Boards consisting of employers, employees and independent persons.

### **Maintenance of Registers and Records**

The employers shall maintain registers and records giving particulars of employees, work performed by them, wages paid to them and receipts given to them. The employer shall keep exhibited notices in prescribed forms containing prescribed particulars. The Government may provide for issue of wage books or wage slips for the employees in the scheduled employment and prescribe the manner in which entry shall be made and authenticated in wage books or wage slips.

### **Penalty**

An employer infringing important provisions of the Act or Rules, is liable to be punished with imprisonment of either description for a period which may exceed to six months or with fine which may exceed to Rs. 500/- or with both.

### **Central Government's Directive Powers**

The Act empowers the Central Government to give directions to a State Government in the matter of enforcement of the provisions of the Act in the State.

### **Competent Authorities under the Act**

Various State Governments have appointed Competent Authorities to ascertain, from time to time, cost of living index numbers applicable to persons employed in the scheduled employments.

### **Minimum Wages (Central Advisory Board) Rules, 1949**

The Rules regulating the constitution of the Board, number of members, term of office, procedure of meetings and disposal of business were sanctioned by the Central Government on the 25th October, 1949. The Board will meet at least twice a year and consist of a Chairman, two representing the Central Government, one person representing each State Government, 24 persons representing in equal proportion employers and employees in the scheduled employments. The Central Government first constituted the Central Advisory Board in May 1950 with 45 members which was reconstituted in April, 1952. The present Board consists of 51 members—17 representing the Central and State Governments and 17 each representing employers and employees engaged in the scheduled employments with the Secretary of the Ministry of Labour, Government of India as Chairman.

### **Minimum Wages (Central) Rules, 1950**

The Rules framed by the Central Government on the 14th October, 1950 serve as a model to the State Rules on the subject and prescribe the daily working hours

for adults at 9 and 4½ for children. The rules provide for payment of overtime work and prescribe that the wage period should not exceed one month.

Most of the State Governments have framed Rules for carrying out the purposes of the Act on the lines of the Central Rules adopting the Central provisions regarding working hours, weekly day of rest, rates of wages for overtime work, etc. The State Rules, amongst others, prescribe the methods of the working of the various Committees and Boards set up under the Act, forms of registers and records to be maintained, the number of hours of work constituting a normal working day.

### **Statewise Fixation of Minimum Wages .**

The position regarding the implementation of the Act and fixation of the minimum wages in Scheduled and non-Scheduled employments in various States is given below :

#### **Employment in Part I of the Schedule**

- (1) Employment in any Woollen Carpet Making or Shawl Making Establishment.  
Bihar, Madras, Punjab and Rajasthan.
- (2) Employment in Rice, Flour and Dal Mills.  
Assam, Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, Pepsu, Uttar Pradesh, Mysore, Rajasthan, Saurashtra, Delhi and West Bengal (rice and flour mills).
- (3) Employment in Tobacco (including bidi making) manufactories.  
Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Uttar Pradesh, West Bengal, Hyderabad, Mysore, Rajasthan, Saurashtra, Travancore-Cochin, Ajmer, Bhopal, Tripura and Vindhya Pradesh.
- (4) Employment in any Plantation (cinchona, rubber, tea or coffee).  
Assam, Bihar, Madras, Punjab, Uttar Pradesh, West Bengal, Mysore, Travancore-Cochin, Coorg and Tripura.
- (5) Employment in Oil Mills.  
Assam, Bihar, Bombay, Madhya Pradesh, Madras, Punjab, Uttar Pradesh, West Bengal, Mysore, Rajasthan, Saurashtra.
- (6) Employment under any Local Authority.  
Bihar, Madhya Pradesh, Madras, Punjab, Uttar Pradesh, West Bengal, Mysore, Rajasthan, Saurashtra, Ajmer, Bhopal, Delhi, Vindhya Pradesh.
- (7) Employment in Road Construction or in Building Operations.  
Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, Uttar Pradesh, West Bengal, Mysore, Rajasthan, Saurashtra, Bhopal, Delhi, Vindhya Pradesh.
- (8) Employment in Stone Breaking or Stone Crushing.  
Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, Uttar Pradesh, Mysore, Rajasthan, Saurashtra, Bhopal, Delhi, Vindhya Pradesh.
- (9) Employment in any Lac Manufactory.  
Bihar, Madhya Pradesh, Uttar Pradesh.
- (10) Employment in any Mica Works.  
Bihar, Madras, Rajasthan, Ajmer.
- (11) Employment in Public Motor Transport.  
Assam, Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, West Bengal, Mysore, Rajasthan, Saurashtra, Delhi, Vindhya Pradesh, Ajmer and Uttar Pradesh.

(12) **Employment in Tanneries and Leather Manufactory.**

Bihar, Bombay, Madhya Pradesh, Madras, Punjab, Uttar Pradesh, West Bengal, Hyderabad, Mysore.

**Employment in Part II of the Schedule**

1. **Employment in Agriculture.**

Bihar, Punjab, Uttar Pradesh, Mysore, Ajmer, Coorg, Delhi, Kutch, Bilaspur, Himachal Pradesh.

**Non-Scheduled Employments**

1. **Employment in Cement industry.—Madhya Pradesh.**

2. **Employment in Potteries.—Madhya Pradesh.**

3. **Employment in Glass.—Madhya Pradesh.**

4. **Employment in Textile industry.—Ajmer.**

5. **Employment in any Foundry.—Delhi.**

6. **Employment in Automobile Engineering (including servicing & repairs)—Delhi.**

**Fair Wages Bill, 1950 (Bill No. 58 of 1950)<sup>5</sup>**

In pursuance of the Central Government Resolution on Industrial Policy of 1948, a Central Labour Advisory Council was appointed for advising Government on fair wages, fair remuneration to capital and conditions of labour. The Council in its first session held in November, 1948 appointed a Committee to enquire into and report on the subject of fair wages to labour. The Fair Wages Committee submitted the Report in June, 1949, which was accepted by the representatives of the employers and labour.

<sup>5</sup> Statement of Objects and Reasons.—The Industrial Truce Resolution of 1947 laid down that in devising a system of remuneration to capital as well as labour, adequate provision must be made, *inter alia*, for payment of fair wages to labour. Government accepted that Resolution in their Statement on Industrial Policy dated the 6th April 1948 and announced their intention to set up suitable machinery for its implementation. Accordingly, a Central Advisory Council was established, consisting of representatives of Central and Provincial Governments, of employers and of employees to examine the various problems arising out of the Industrial Truce Resolution. That Council was assisted in its study of the subject of fair wages by a tripartite committee which submitted a unanimous report.

2. The Fair Wages Bill which has been drafted on the basis of the report of the Committee on Fair Wages is the first step in the realisation of labour's dreams of a living wage which has been vouchsafed to it by the Constitution. The ultimate expectations have, however, to be tempered with immediate possibilities and hence the emphasis that the Bill places on the limit to fair wages being set by the capacity of industry to pay. It has, however, equally clearly been laid down that an employer to whom the provisions of the Bill apply shall in no circumstances pay his employees a wage less than the minimum wage described therein, irrespective of the capacity of the industry or the unit. The fair wage contemplated in the Bill will, so long as the cost of living index number exceeds a slab of 185 to 200 (the cost of living index number of 1939 being taken as 100), consist of a basic rate and a cost of living allowance, the latter to be adjusted according to such graduated scales as may, from time to time, be prescribed by the appropriate Government. There are also provisions in the Bill relating to the fixation of wage differentials, the calculation of over-time, the principle of equal pay for equal work and the revision of fair rates of wages from time to time.

3. It must, however, be mentioned that the principles for the determination of fair wages mentioned in Chapter IV of the Bill are, by the very nature of the concepts therein embodied, not always susceptible of exact or meticulous definition and are, therefore, more in the nature of directive and suggestive principles to be borne in mind by the wage-fixing machinery than as exact definitions complete in themselves and capable of immediate translation into final decisions. And yet, Government feel that it is an advantage to include them in the legislation both as an indication of the lines on which the various wage-fixing bodies should approach this vital and complex problem and as a guide which will facilitate co-ordination and the maintenance of uniform standards throughout the country.

The Report was discussed in the meeting of the Central Labour Advisory Council on the 29th July, 1949 and was unanimously adopted. Fair Wages Bill incorporating the recommendations of the Committee was introduced in the Provisional Parliament on the 4th August, 1950. The fair wages, suggested by the Fair Wages Bill, are a compromise between the living and minimum standards and the principles for the determination of fair wages have been laid down. They are, by the very nature of the concepts therein embodied, not always susceptible of exact or meticulous definition and are therefore more in the nature of directive and suggestive principles to be borne in mind by the wage fixing machinery than as exact definitions complete in themselves and capable of immediate translation into final decisions. The Act will apply to factories and mines in the first instance and to the employees drawing Rs. 200/- per month or less.

The Fair Wages Committee and following its recommendations, the Fair Wages Bill made a distinction between "minimum wage," "fair wage" and "living wage." The "minimum wage" must provide not merely for the bare sustenance of life but for the preservation of the efficiency of the worker by providing for some measure of education, medical requirements and amenities. It is the absolute minimum below which the wages should not be allowed to fall. The "living wage" represents a standard of living which provides not merely for a bare physical subsistence but for the maintenance of health and decency, a measure of frugal comfort and some insurance against the most important misfortunes of life. The "fair wage" is generally higher than "minimum wage" but lower than "living wage" and will ensure to the workers not only the necessities like food, housing and education but also a reasonable amount of comfort. According to the Committee, the lower limit of a fair wage would obviously be the minimum but the upper limit would clearly be the capacity of the industry to pay. The fixation of the fair wage depends upon (i) the productivity of labour, (ii) the prevailing rates of wages, (iii) the level of national income and its distribution and (iv) the place of the industry in the economy of the country.

The Bill lapsed on the dissolution of the Provisional Parliament.

### Planning Commission & Indian Labour Conferences

The Planning Commission in the First Five Year Plan has recommended that for important industries separate Wage Boards would be found very helpful and such Wage Boards might be established at the Centre to which issues affecting an industry in the country as a whole might be referred. The Commission has also recommended that permanent Wage Boards with tripartite composition should be set up in each State and also at the Centre to deal comprehensively with all the aspects of the question of wages, to collect necessary data and initiate enquiries and to review the situation from time to time and also to take decisions regarding wage adjustments *suo motu* or on reference from the Government or parties.

4. The machinery contemplated for the fixation of fair wages is largely on familiar lines—tripartite Wages Boards co-ordinated by an all India Appellate Body. The technical aspects of the working of Wages Boards, for example, publication, commencement and period of operation of awards and similar matters, are on the lines provided for in the Labour Relations Bill. The Act applies in the first instance to factories and mines, but is capable of extension by notification to other classes of establishments where a manufacturing or mining process is carried on.

5. The Fair Wages Bill, in its present form, is undoubtedly a novel experiment in the field of wage regulation, for it is not often that enactments of this kind provide for anything more than a bare machinery for fixation of wages. If then, Government have tried to include in the Bill something more than is usual or conventional, it is because they have tried to give expression, inadequately perhaps, to the hopes and aspirations of a class of wage-earners who occupy a strategic position in the economy of the country. (Gazette of India, 1950, Part II—Sec. 2, page 329).

The question of establishing a Standing Wage Fixing Machinery in the form of Wage Boards for determining and reviewing the rates of wages for the different categories of workers and for watching the wage levels in the country at all times for consideration of any adjustment, if necessary, was discussed in the Thirteenth Session of the Indian Labour Conference held at Mysore in January, 1954. The Conference recommended that the Fair Wages Bill of 1950 should not be revived and Wage Boards should be set up at central levels.

Certain amendments to the Minimum Wages Act, 1948 prepared by the Ministry of Labour were placed in the Fourteenth Session of the Indian Labour Conference held at Bombay in May, 1955 and the amendments proposed creation of permanent machinery for fixation of minimum wages, validation of minimum wages fixed during the intervening period, first priority for wages in contractors' assets, etc.

The Draft outline of the Second Five Year Plan has also recommended immediate setting up of tripartite Wage Boards in all industries for settling wages disputes.

### **Wage Boards to Standardise Wages**

The Deputy Labour Minister informed the Lok Sabha that Wage Boards for standardisation of wages have been set up for a number of industries apart from those constituted under the provisions of the Minimum Wages Act, 1948. The Central Government has constituted a Central Wages (Standardisation) Board for the Cement Industry and several State Governments have set up Wages (Standardisation) Boards for this industry. The Bihar Government has constituted a Committee for standardising wages in sugar industry. The Bombay Government has set up a Wage Board for cotton and silk textile industries.

## **MINIMUM WAGES ACT, 1948 (XI OF 1948)**

### **Statement of Objects and Reasons<sup>1</sup>**

The justification for statutory fixation of minimum wages is obvious. Such provisions which exist in more advanced countries are even more necessary in India, where workers' organizations are yet poorly developed and the workers' bargaining power is consequently poor.

2. The Bill provides for fixation, by the Provincial Governments, of minimum wages for employments covered by the schedule to the Bill. The items in the schedule are those where sweated labour is most prevalent or where there is a big chance of exploitation of labour. After a time, when some experience is gained, more categories of employments can be added and the Bill provides for additions to the schedule. A higher period is allowed for fixation of minimum wages for agricultural labour as administrative difficulties in this case will be more than in the other employments covered by the schedule. The Bill also provides for periodical revision of wages fixed.

3. Provision has been made for appointment of Advisory Committees and Advisory Boards, the latter for co-ordination work of the Advisory Committees. The Committees and the Boards will have equal representation of employers and workmen. Except on initial fixation of minimum wages, consultation with the Advisory Committees will be obligatory on all occasions of revision.

4. In cases where an employer pays less than the minimum wages fixed by the Provincial Governments, a summary procedure has been provided for recovery of the balance with penalty and for subsequent prosecution of the offending party.

5. It is not ordinarily proposed to make any exemptions in regard to employees of undertaking belonging to the Central Government except that difficulties might arise where the sphere of duty of such an employee covers more than one Province and where the rates of minimum wages, fixed by the different Provinces may be different. For this purpose, a provision has been included that the minimum wages fixed by a Provincial Government will not apply to employees in any undertaking owned by the Central Government or employees of a Federal Railway, except with the consent of the Central Government.

<sup>1</sup> Gazette of India, 1946, Part V, page 224.



## 2. AMENDING ACT OF 1950 (LVI OF 1950)

### Statement of Objects and Reasons<sup>2</sup>

Under clause (a) of sub-section (1) of section 3 of the Minimum Wages Act, 1948 (XI of 1948), the appropriate Governments were required to fix minimum rates of wages in respect of the employments specified in Part I of the Schedule to the Act before the 15th March, 1950. The Union Government and most of the State Governments, for one reason or the other, have not been able to fix minimum rates of wages in respect of those employments by the stipulated date. Steps, however, are being taken to fix the rates as early as possible. The minimum rates of wages fixed after the 15th March, 1950 or any action taken under the enactment after that date could be contended as bad in law, because action was not taken within the period specified in the Act. To get over this difficulty and also to legalise the actions taken by the appropriate Governments regarding the fixation of minimum rates of wages in those employments after the 15th March, 1950, the Minimum Wages (Extension of Time) Ordinance, 1950, was promulgated. Since the Ordinance will, under Article 123 of the Constitution of India, cease to operate after six weeks from the reassembly of the next session of the Parliament, it is necessary to replace it by an Act. This Bill which is self-explanatory has, therefore, been brought before the Parliament.

## 3. AMENDING ACT OF 1951 (XVI OF 1951)

### Statement of Objects and Reasons<sup>3</sup>

Under clause (a) of sub-section (1) of section 3 of the Minimum Wages Act, 1948, as amended by the Minimum Wages (Amendment) Act, 1950, the appropriate Governments are required to fix minimum rates of wages in respect of the employments specified in the Schedule to the Act before the 15th March, 1951. But not all State Governments have been able to do so up till now.

With respect to the employments specified in Part I of the Schedule, some State Governments require an extension of time for fixation of minimum rates of wages, and it is, therefore, proposed to extend the time limit up to the 31st March, 1952.

With respect to employment in agriculture specified in Part II of the Schedule, most State Governments have expressed their inability to fix minimum rates of wages within the time prescribed as considerable difficulties are involved in the process, particularly when it has to be undertaken on a country-wide scale and so as to cover all classes of employment in agriculture. After careful consideration the Central Government have come to the conclusion that State Governments should, in regard to fixation of minimum rates of wages in agriculture, be allowed some discretion in the matter of its enforcement, particularly with reference to the date of enforcement and the areas in which and the employees with respect to whom the powers may be exercised. Sub-clauses (1)(a)(ii) and (2) of clause 2 make due provision in this behalf.

With respect to employments added to Part I or Part II of the Schedule, as the case may be, by notification under section 27 of the Act, the Act now provides that the date of enforcement shall be two or three years from the date of the notification. In such cases also it would be much better to empower the appropriate Government to notify the date of enforcement for fixation of minimum rates of wages.

## 4. AMENDING ACT OF 1954 (XXVI OF 1954)

### Statement of Objects and Reasons<sup>4</sup>

Under sub-clause (i) of clause (a) of sub-section (1) of Section 3 of the Minimum Wages Act, 1948 (XI of 1948), the appropriate Governments were required to fix minimum rates of wages in the employments listed in Part I of the Schedule before the 31st March, 1952. Since the Act was extended to Part B States only with effect from the 1st April, 1951, they had to complete all formalities required for fixing minimum wages within a period of less than one year with the result that it has not been possible for them to fix minimum wages in all cases. Moreover, the rates fixed after the 31st March, 1952 have no validity in law. In order to remove these legal difficulties and to give some more time to the States

<sup>2</sup> Gazette of India, 1950, Part II—Section 2, page 300.

<sup>3</sup> Gazette of India, 1951, Part II—Section 2, page 131.

<sup>4</sup> Gazette of India Extraordinary, 1953, Part II—Section 2, pages 117-118.

for enforcing the provisions of the Act it is proposed to extend the time-limit for fixing minimum rates of wages in employments mentioned in Part I of the Schedule to the 31st December, 1953.

2. It is also proposed to provide for the fixation of rates in respect of those scheduled employments for which no minimum rates of wages were initially fixed—in view of the proviso to clause (b) of sub-section (1) of section 3—within one year from the date on which the appropriate Government is satisfied that no less than one thousand employees are engaged in the employment in the whole State.

3. Similarly, when new items are added under the powers conferred under section 27 of the Act, the amending Bill provides that minimum wages in respect of those items should be fixed within one year from the date of issue of the Notification under section 27 of the Act.

4. As the object of the Minimum Wages Act is to provide safeguards for labour in what are called sweated industries, it is proposed to amend section 26(1) so that the appropriate Government has power to direct that minimum rates of wages may not be fixed in respect of employees whose wages average seventy-five rupees or more per month if the wages are computed on a monthly basis or rupees three or more per day, if computed on a daily basis. As the Act stands at present, minimum wages have to be fixed for all classes of employees in the Scheduled employments including those in whose cases there is no real need to do so.

## MINIMUM WAGES ACT, 1948 (XI OF 1948)

### Arrangement of Sections

1. Short title and extent.
  2. Interpretation.
  3. Fixing of minimum rates of wages.
  4. Minimum rate of wages.
  5. Procedure for fixing minimum wages.
  6. Advisory Committees and Sub-Committees.
  7. Advisory Board.
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  9. Composition of committees, etc.
  10. Procedure for revision of minimum rates of wages.
  11. Wages in kind.
  12. Payment of minimum rates of wages.
  13. Fixing hours for a normal working day, etc.
  14. Overtime.
  15. Wages of worker who works for less than normal working day.
  16. Wages for two or more classes of work.
  17. Minimum time rate wages for piece work.
  18. Maintenance of registers and records.
  19. Inspectors.
  20. Claims.
  21. Single application in respect of a number of employees.
  22. Penalties and Procedure.
  23. Exemption of employer from liability in certain cases.
  24. Bar of suits.
  25. Contracting out.
  26. Exemptions and exceptions.
  27. Power of State Government to add to Schedule.
  28. Power of Central Government to give direction.
  29. Power of the Central Government to make rules.
  30. Power of appropriate Government to make rules.
  31. Validation of fixation of certain minimum rates of wages.
- SCHEDULE.

## MINIMUM WAGES ACT, 1948 (XI OF 1948)<sup>1</sup>

*An Act to provide for fixing minimum rates of wages in certain employments.*

[15th March, 1948]

Whereas it is expedient to provide for fixing minimum rates of wages in certain employments:

It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Minimum Wages Act, 1948.

(2) It extends to <sup>2</sup>[the whole of India <sup>3</sup>[except the State of Jammu and Kashmir]].

**2. Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,

(a) “adult”, “adolescent” and “child” have the meanings respectively assigned to them in section 2 of the <sup>4</sup>[Factories Act, 1948 (LXIII of 1948)];

(b) “appropriate Government” means—

(i) in relation to any scheduled employment carried on by or under the authority of the Central Government, <sup>5</sup>[by a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by <sup>6</sup>[a Central Act], the Central Government, and;

(ii) in relation to any other scheduled employment the <sup>7</sup>[State] Government;

(c) “competent authority” means the authority appointed by the appropriate Government by notification in its official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;

(d) “cost of living index number” in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by the competent authority by notification in the official Gazette to be the cost of living index number applicable to employees in such employment;

(e) “employer” means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of section 26,—

(i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V., p. 224; See also p. 909 ante and for the Report of the Select Committee, see *ibid.*, 1948, Pt. V., p. 55.

<sup>2</sup> Subs. by the A. O. 1950 for “all the Provinces of India”.

<sup>3</sup> Subs. by Act 3 of 1951 for “except Part B States”.

<sup>4</sup> Subs. by the Act 26 of 1954, s. 2.

<sup>5</sup> Subs. by the A. O. 1950 for “by the Federal Railway Authority, or a railway company operating a Federal railway”.

<sup>6</sup> Subs. *ibid.*, for “an Act of the Central Legislature”.

<sup>7</sup> Subs. *ibid.*, for “Provincial”.

this Act, any person named under <sup>a</sup>[clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (LXIII of 1948)], as manager of the factory;

- (ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the Department;
  - (iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;
  - (iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "scheduled employment" means an employment specified in the schedule, or any process or branch of work forming part of such employment;
- (h) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—
- (i) the value of—
    - (a) any house-accommodation, supply of light, water, medical attendance, or
    - (b) any other amenity or any service excluded by general or special order of the appropriate Government;
  - (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any Scheme of social insurance;
  - (iii) any travelling allowance or the value of any travelling concession;
  - (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
  - (v) any gratuity payable on discharge;
- (i) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the <sup>a</sup>[Union].

<sup>a</sup> Subs. by Act 26 of 1954, s. 2.

<sup>a</sup> Subs. by the A. O. 1950 for "Crown".

**3. Fixing of minimum rates of wages—**<sup>10</sup>[(1) The appropriate Government shall, in the manner hereinafter provided,—

(a) fix the minimum rates of wages payable to employees employed—

(i) in an employment specified in Part I of the Schedule at the commencement of this Act, before the 31st day of December, 1954;

(ii) in an employment specified in Part II of the Schedule at the commencement of this Act, before the 31st day of December, 1954;

Provided that the appropriate Government may, instead of fixing minimum rates of wages under this sub-clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof; and

(iii) in an employment added to Part I or Part II of the Schedule by notification under section 27, before the expiry of one year from the date of the notification.

(b) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary.

(1A) Notwithstanding anything contained in sub-section (1), the appropriate Government may refrain from fixing the minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment, but if at any time, whether before or after the expiry of any time limit specified in sub-section (1), the appropriate Government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment within one year from the date on which it comes to such finding.]

(2) The appropriate Government may fix,—

(a) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(b) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");

(c) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(d) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(3) In fixing or revising minimum rates of wages under this section,—

(a) different minimum rates of wages may be fixed for—

(i) different scheduled employments;

(ii) different classes of work in the same scheduled employment;

(iii) adults, adolescents, children and apprentices;

(iv) different localities;

<sup>10</sup> Subs. by Act 26 of 1954, s. 3.

- (b) minimum rates of wages may be fixed by the hour, by the day or by any larger wage period as may be prescribed:

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (IV of 1936), minimum wages shall be fixed in accordance therewith.

**4. Minimum rate of wages—**(1) Any minimum rate of wages fixed or revised by the appropriate Government in respect of scheduled employments under section 3 may consist of—

- (i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the "cost of living allowance"); or
- (ii) a basic rate of wages with or without the cost of living allowance and the cash value of the concession in respect of supplies of essential commodities at concession rates, where so authorised; or
- (iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

(2) The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rates shall be computed by the competent authority at such intervals and in accordance with such directions as may be specified or given by the appropriate Government.

**5. Procedure for fixing minimum wages—**(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act, the appropriate Government shall either,—

- (a) appoint a committee to hold enquiries and advise it in this behalf with such sub-committees for different localities as it may deem expedient to appoint to assist such committee, or
- (b) by notification in the official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee appointed under clause (a) of sub-section (1) or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the official Gazette, fix the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

**6. Advisory Committees and Sub-Committees.**—For the purpose of revising minimum rates of wages fixed under this Act, the appropriate Government shall appoint as many advisory committees and sub-committees as it considers necessary to inquire into the conditions prevailing in any scheduled employment and to advise the appropriate Government in making such revision in respect of that employment.

**7. Advisory Board.**—For the purpose of co-ordinating the work of committees, sub-committees, advisory committees and advisory sub-committees appointed under sections 5 and 6 and advising the appropriate Government generally in the matter of fixing and revising minimum rates of wages, the appropriate Government shall appoint an Advisory Board.

**8. Central Advisory Board.**—(1) For the purpose of advising the Central and <sup>11</sup>[State] Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-ordinating the work of the Advisory Boards, the Central Government shall appoint a Central Advisory Board.

(2) The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.

**9. Composition of committees, etc.**—Each of the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employments, who shall be equal in number, and independent persons not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman by the appropriate Government.

**10. Procedure for revision of minimum rates of wages.**—(1) Before revising any minimum wages fixed under this Act, the appropriate Government shall consult all advisory committees appointed under section 6 to inquire into the conditions prevailing in the scheduled employment concerned, and the Advisory Board also.

(2) Revisions of minimum wages shall be notified by the appropriate Government in the official Gazette, and unless the notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue.

**11. Wages in kind.**—(1) Minimum wages payable under this Act shall be paid in cash.

(2) Where it has been the custom to pay wages wholly or partly in kind, the appropriate Government being of the opinion that it is necessary in the circumstances of the case may, by notification in the official Gazette, authorise the payment of minimum wages either wholly or partly in kind.

(3) If the appropriate Government is of the opinion that provision should be made for the supply of essential commodities at concession rates, the appropriate Government may, by notification in the official Gazette, authorise the provision of such supplies at concession rates.

(4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates authorised under sub-sections (2) and (3) shall be estimated in the prescribed manner.

**12. Payment of minimum rates of wages.**—(1) Where in respect of any scheduled employment a notification under section 5 or section 10 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.

(2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (IV of 1936).

<sup>11</sup> Subs. by the A. O. 1950 for "Provincial".

**13. Fixing hours for a normal working day, etc.**—In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

- (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

**14. Overtime.**—(1) Where an employee, whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher.

(2) Nothing in this Act shall prejudice the operation of the provisions of <sup>12</sup>[section 59 of the Factories Act, 1948 (LXIII of 1948)] in any case where those provisions are applicable.

**15. Wages of worker who works for less than normal working day.**—If an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a period less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day:

Provided, however, that he shall not be entitled to receive wages for a full normal working day—

- (i) in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work, and
- (ii) in such other cases and circumstances as may be prescribed.

**16. Wages for two or more classes of work.**—Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.

**17. Minimum time rate wages for piece work.**—Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate.

**18. Maintenance of registers and records.**—(1) Every employer shall maintain such registers and records giving such particulars of employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars and in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out-workers, in such factory, workshop or place as may be used for giving out-work to them, notices in the prescribed form containing prescribed particulars.

<sup>12</sup> Subs. by Act 26 of 1954, s. 4.



(3) The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

**19. Inspectors.**—(1) The appropriate Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions.

(2) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed—

- (a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the <sup>13</sup>[Government] or any local or other public authority, as he thinks fit, any premises or place where employees are employed or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;
- (b) examine any person whom he finds in any such premises or place, and who, he has reasonable cause to believe, is an employee employed therein or an employee to whom work is given out therein;
- (c) require any person giving out-work and any out-workers, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;
- (d) take copies of any register, record of wages or notices or of any portions thereof; and
- (e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

**20. Claims.**—(1) The appropriate Government may, by notification in the official Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the Authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages to employees employed or paid in that area.

(2) Where an employee is paid less than the minimum rates of wages fixed for his class of work under this Act, the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages became payable:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

<sup>13</sup> Subs. by the A. O. 1950 for "Crown".

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or give them an opportunity of being heard, and after such further inquiry if any as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act, direct the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess and the Authority may direct payment of such compensation in cases where the excess is paid by the employer to the employee before the disposal of the application.

(4) If the Authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the Authority is a Magistrate, by the Authority as if it were a fine imposed by the Authority as a Magistrate, or

(b) if the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

(6) Every direction of the Authority under this section shall be final.

(7) Every Authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such Authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

**21. Single application in respect of a number of employees.**—(1) A single application may be presented under section 20 on behalf or in respect of any number of employees employed in the scheduled employment in respect of which minimum rates of wages have been fixed and in such cases the maximum compensation which may be awarded under sub-section (3) of section 20 shall not exceed ten times the aggregate amount of such excess.

(2) The Authority may deal with any number of separate pending applications presented under section 20 in respect of employees in the scheduled employments in respect of which minimum rates of wages have been fixed, as a single application presented under sub-section (1) of this section and the provisions of that sub-section shall apply accordingly.

**22. Penalties and Procedure.**—(1) Any employer who pays to any employee less than the minimum rates of wages fixed for that employee's class of work or less than the amount due to him under the provisions of this Act, or infringes any order or rules made under section 13 shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:

Provided that in imposing any fine for an offence under this sub-section, the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

(2) Any employer who fails to maintain a register or record required to be maintained under section 18 shall be punishable with fine which may extend to five hundred rupees.

(3) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1), unless an application in respect of the facts con-

stituting the offence has been presented under section 20 and has been granted wholly or in part, and the Authority granting such application has sanctioned the making of the complaint.

(4) No Court shall take cognizance of any offence under sub-section (2) except on a complaint made by, or with the sanction of, an Inspector.

(5) No Court shall take cognizance of an offence—

(a) under sub-section (1), unless complaint thereof is made within one month of the grant of sanction under sub-section (3);

(b) under sub-section (2), unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

**23. Exemption of employer from liability in certain cases.**—Where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged:

Provided that in seeking to prove, as aforesaid, the employer may be examined on oath, and the evidence of the employer or his witness, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.

**24. Bar of suits.**—No Court shall entertain any suit for the recovery of wages in so far as the sum so claimed—

(a) forms the subject of an application under section 20 which has been presented by or on behalf of the plaintiff, or

(b) has formed the subject of a direction under that section in favour of the plaintiff, or

(c) has been adjudged in any proceeding under that section not to be due to the plaintiff, or

(d) could have been recovered by an application under that section.

**25. Contracting out.**—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act

**26. Exemptions and exceptions.**—(1) The appropriate Government may, subject to such conditions if any as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate Government may, if for special reasons it thinks so fit by notification in the official Gazette direct that for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

<sup>14</sup>[(2) The appropriate Government may, if it is of opinion that, having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area, it is not necessary to fix minimum wages in respect of such employees of that class as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification in the Official Gazette and subject to such conditions, if any, as it may think fit to impose, that the provisions of this Act or any of them shall not apply in relation to such employees.]

(3) Nothing in this Act shall apply, to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

*Explanation.*—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

**27. Power of State Government to add to Schedule.**—The appropriate Government, after giving by notification in the official Gazette not less than three months' notice of its intention so to do, may, by like notification, add to either Part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under this Act, and thereupon the Schedule shall in its application to the <sup>15</sup>[State] be deemed to be amended accordingly.

**28. Power of Central Government to give directions.**—The Central Government may give directions to a <sup>15</sup>[State] Government as to the carrying into execution of this Act in the <sup>15</sup>[State].

**29. Power of the Central Government to make rules.**—The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules prescribing the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the Central Advisory Board.

**30. Power of appropriate Government to make rules.**—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules for carrying out the purposes of this Act;

(2) without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the term of office of the members, the procedure to be followed in the conduct of business, the method of voting, the manner of filling up casual vacancies in membership and the quorum necessary for the transaction of business of the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board;
- (b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the enquiry before the committees, sub-committees, advisory committees, advisory sub-committees and the Advisory Board;
- (c) prescribe the mode of computation of the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates;
- (d) prescribe the time and conditions of payment of, and the deductions permissible from, wages;
- (e) provide for giving adequate publicity to the minimum rates of wages fixed under this Act;

<sup>14</sup> Ins. by Act 26 of 1954, s. 5.

<sup>15</sup> Subs. by the A. O. 1950.

- (f) provide for a day of rest in every period of seven days and for the payment of remuneration in respect of such day;
- (g) prescribe the number of hours of work which shall constitute a normal working day;
- (h) prescribe the cases and circumstances in which an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day;
- (i) prescribe the form of registers and records to be maintained and the particulars to be entered in such registers and records;
- (j) provide for the issue of wage books and wage slips and prescribe the manner of making and authenticating entries in wage books and wage slips;
- (k) prescribe the powers of Inspectors for purposes of this Act;
- (l) regulate the scale of costs that may be allowed in proceedings under section 20;
- (m) prescribe the amount of court-fees payable in respect of proceedings under section 20; and
- (n) provide for any other matter which is to be or may be prescribed.

<sup>16</sup>[31. **Validation of fixation of certain minimum rates of wages.**—Where during the period commencing on the 1st day of April, 1952, and ending with the date of commencement of the Minimum Wages (Amendment) Act, 1954, minimum rates of wages have been fixed by an appropriate Government as being payable to employees employed in any employment specified in Part I of the Schedule in the belief or purported belief that such rates were being fixed under sub-clause (i) of clause (a) of sub-section (1) of section 3, such rates shall be deemed to have been fixed in accordance with law, and shall not be called in question in any court on the ground merely that the date specified in that sub-clause had expired at the time the rates were fixed:

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the payment by him by way of wages to any of his employees during the period specified in this section an amount which is less than the minimum rates of wages referred to in this section or by reason of non-compliance during the period aforesaid with any order or rule issued under section 13.]

## THE SCHEDULE

[See sections 2(g) and 27]

### PART I

1. Employment in any woollen carpet making or shawl weaving establishment.
- Employment in any rice mill, flour mill or *dal* mill.
- Employment in any tobacco (including *bidi* making) manufactory.
- Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.
5. Employment in any oil mill.
6. Employment under any local authority.

<sup>16</sup> Added by Act 26 of 1954, s. 6.

7. Employment on road construction or in building operations.
8. Employment in stone breaking or stone crushing.
9. Employment in any lac manunfactory.
10. Employment in any mica works.
11. Employment in public motor transport.
12. Employment in tanneries and leather manufactory.

## PART II

1. Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live stock, bees or poultry, and any practice performed by a farmer or on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market of farm produce).

## MINIMUM WAGES (CENTRAL) RULES, 1950

### Arrangement of Paragraphs

#### CHAPTER I—PRELIMINARY

1. Short title and extent.
2. Interpretation.

#### CHAPTER II—MEMBERS AND STAFF, AND MEETINGS OF THE BOARD, COMMITTEE AND ADVISORY COMMITTEE

3. Term of office of the members of the Committee and the Advisory Committee.
4. Term of office of members of the Board.
5. Travelling allowance.
6. Staff.
7. Eligibility for re-nomination of the members of the Committee, Advisory Committee and the Board.
8. Resignation of the Chairman and members of the Committee, Advisory Committee and the Board and filling of casual vacancies.
9. Cessation and restoration of membership.
10. Disqualification.
11. Meetings.
12. Notice of meetings.
13. Chairman.
14. Quorum.
15. Disposal of business.
16. Method of voting.
17. Proceedings of the Meeting.

#### CHAPTER III—SUMMONING OF WITNESSES BY THE COMMITTEE, ADVISORY COMMITTEE AND THE BOARD AND PRODUCTION OF DOCUMENTS

18. Summoning of witnesses and production of documents.
19. Expenses of witnesses.

#### CHAPTER IV—COMPUTATION AND PAYMENT OF WAGES, HOURS OF WORK AND HOLIDAYS

20. Mode of computation of the cash value of wages.
21. Time and conditions of payment of wages and the deductions permissible from wages.
22. Publicity to the minimum wages fixed under the Act.
23. Weekly Holidays.
24. Number of hours of work which shall constitute a normal working day.
25. Extra wages for overtime.
26. Form of registers and records.

## CHAPTER V—CLAIMS UNDER THE ACT

- 27. Application.
- 28. Authorisation.
- 29. Appearance of parties.

## CHAPTER VI—SCALE OF COSTS IN PROCEEDINGS UNDER THE ACT

- 30. Costs.
- 31. Court Fees.

## CHAPTER VII—MISCELLANEOUS

- 32. Saving.
- FORMS.

**MINIMUM WAGES (CENTRAL) RULES, 1950<sup>1</sup>**

In exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government is pleased to make the following rules, the same having been previously published as required by the said section, namely:—

**RULES****CHAPTER I—PRELIMINARY**

1. **Short title and extent.**—These rules may be called the Minimum Wages (Central) Rules, 1950.
2. **Interpretation.**—In these rules, unless the context otherwise requires—
  - (a) 'Act' means the Minimum Wages Act, 1948;
  - (b) 'advisory committee' means an advisory committee appointed under section 6 and includes an advisory sub-committee appointed under that section;
  - (c) 'Authority' means the authority appointed under sub-section (1) of Section 20;
  - (d) 'Board' means the Advisory Board appointed under section 7;
  - (e) 'Chairman' means the Chairman of the Advisory Board, the Committee or the Advisory Committee, as the case may be, appointed under Section 9;
  - (f) 'committee' means a Committee appointed under clause (a) of sub-section (1) of section 5 and includes a sub-committee appointed under that Section.
  - (ff) 'day' means a period of twenty-four hours beginning at midnight;
  - (g) 'form' means a form appended to these rules;
  - (h) 'Inspector' means a person appointed as Inspector under section 19;
  - (i) 'registered trade union' means a trade union registered under the Indian Trade Union Act, 1926;
  - (j) 'Section' means a section of the Act; and
  - (k) All other words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

**CHAPTER II—MEMBERS AND STAFF, AND MEETINGS OF THE BOARD, COMMITTEE AND ADVISORY COMMITTEE**

3. **Term of office of the members of the Committee and the Advisory Committee.**—The term of office of the members of the Committee or an Advisory Committee shall be such as in the opinion of the Central Government is necessary for completing the enquiry into the scheduled employment concerned and the Central Government may, at the time of the constitution of the Committee or an Advisory Committee, as the case may be, fix such term and may, from time to time, extend it as circumstances may require.

4. **Term of office of members of the Board.**—(1) Save as otherwise expressly provided in these rules, the term of office of a non-official member of the Board, shall be two years commencing from the date of his nomination.

Provided that such member shall, notwithstanding the expiry of the said period of two years, continue to hold office until his successor is nominated.

(2) A non-official member of the Board nominated to fill a casual vacancy shall hold office for the remaining period of the term of office of the member in whose place he is nominated.

(3) The official members of the Board shall hold office during the pleasure of the Central Government.

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 776 dated the 14th October, 1950.

**5. Travelling allowance.**—A non-official member of the Committee, an Advisory Committee or the Board shall be entitled to draw travelling and halting allowances for any journey performed by him in connection with his duties as such member at the rates and subject to the conditions applicable to a Government servant of the first class under the appropriate rules of the Central Government.

**6. Staff.**—(1) The Central Government may appoint a Secretary to the Committee, an Advisory Committee or the Board and such other staff as it may think necessary, and may fix the salaries and allowances payable to them and specify their conditions of service.

(2) (i) The Secretary shall be the Chief Executive Officer of the Committee, the Advisory Committee or the Board as the case may be. He may attend the meetings of such Committee, Advisory Committee or Board but shall not be entitled to vote at such meetings.

(ii) The Secretary shall assist the Chairman in convening meetings and shall keep a record of the minutes of such meetings and shall take necessary measures to carry out the decisions of the Committee, the Advisory Committee or the Board, as the case may be.

**7. Eligibility for renomination of the members of the Committee, Advisory Committee and the Board.**—An out-going member shall be eligible for renomination for the membership of the Committee, Advisory Committee or the Board, of which he was a member.

**8. Resignation of the Chairman and members of the Committee, Advisory Committee and the Board and filling of casual vacancies.**—(1) A member of the Committee, Advisory Committee or the Board other than the Chairman may, by giving notice in writing to the Chairman, resign his membership.

(2) The Chairman may resign by letter addressed to the Central Government.

(3) When a vacancy occurs or is likely to occur in the membership of the Committee, Advisory Committee or the Board, the Chairman shall submit a report to the Central Government immediately. The Central Government shall then take steps to fill vacancy.

**9. Cessation and restoration of membership.**—(1) If a member of the Committee, Advisory Committee or the Board fails to attend three consecutive meetings, he shall subject to the provisions of sub-rule (2), cease to be a member thereof.

(2) A person who ceases to be a member under sub-rule (1) shall be given intimation of such cessation by a letter sent to him by registered post within fifteen days from the date of such cessation. The letter shall indicate that if he desires restoration of his membership, he may apply therefor within thirty days from the receipt of such letter. The application for restoration of membership, if received within the said period, shall be placed before the Committee, the Advisory Committee or the Board, as the case may be, and if a majority of members present at the next meeting is satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restored to membership immediately after a resolution to that effect is adopted.

**10. Disqualification.**—(1) A person shall be disqualified for being nominated as, and for being a member of the Committee, Advisory Committee or the Board, as the case may be,—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Act, he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether a disqualification has been incurred under sub-rule (1) the decision of the Central Government thereon shall be final.

**11. Meetings.**—The Chairman may, subject to the provisions of rule 12, call a meeting of the Committee, Advisory Committee or the Board, as the case may be, at any time he thinks fit:

Provided that on a requisition in writing from not less than one half of the members the Chairman shall call a meeting within fifteen days from the date of the receipt of such requisition.

**12. Notice of meetings.**—The Chairman shall fix the date, time and place of every meeting, and a notice in writing containing the aforesaid particulars along with a list of business to be conducted at the meeting shall be sent to each member by registered post at least fifteen days before the date fixed for such meeting:

Provided that in the case of an emergent meeting, notice of seven days only may be given to every member.

**13. Chairman.**—(1) The Chairman shall preside at the meetings of the Committee, Advisory Committee or the Board, as the case may be.



(2) In the absence of the Chairman at any meeting the members shall elect from amongst themselves by a majority of votes, a member, who shall preside at such meeting.

**14. Quorum.**—No business shall be transacted at any meeting unless at least one-third of the members are present:

Provided that if at any meeting less than one-third of the members are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present.

**15. Disposal of business.**—All business shall be considered at a meeting of the Committee, Advisory Committee or the Board, as the case may be, and shall be decided by a majority of the votes of members present and voting. In the event of an equality of votes the Chairman shall have a casting vote:

Provided that the Chairman may if he thinks fit, direct that any matter shall be decided by the circulation of necessary papers and by securing written opinion of the members:

Provided further that no decision on any matter under the preceding proviso shall be taken, unless supported by not less than a two-thirds majority of the members.

**16. Method of voting.**—Voting shall ordinarily be by show of hands, but if any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may decide.

**17. Proceedings of the meeting.**—(1) The proceedings of each meeting showing *inter alia* the names of the members present thereat shall be forwarded to each member and to the Central Government as soon after the meeting as possible and in any case, not less than seven days before the next meeting.

(2) The proceedings of each meeting shall be confirmed with such modifications, if any, as may be considered necessary at the next meeting.

#### CHAPTER III—SUMMONING OF WITNESSES BY THE COMMITTEE, ADVISORY COMMITTEE AND THE BOARD AND PRODUCTION OF DOCUMENTS

**18. Summoning of witnesses and production of documents.**—(1) A Committee, Advisory Committee or the Board may summon any person to appear as a witness in the course of an enquiry. Such summons may require a witness to appear before it on a date specified therein and to produce any books, papers or other documents and things in his possession or under his control relating in any manner to the enquiry.

(2) A summons under sub-rule (1) may be addressed to an individual or an organisation of employers or a registered trade union of workers.

(3) A summons under this rule may be served—

(i) in the case of an individual, by being delivered or sent to him by registered post;

(ii) in the case of an employers' organisation or a registered trade union of workers, by being delivered or sent by registered post to the secretary or other principal officer of the organisation or union, as the case may be.

(4) The provisions of the Code of Civil Procedure, 1908, relating to the summoning and enforcement of the appearance of witnesses and the production of documents shall, so far as may be apply to proceedings before a Committee, Advisory Committee or the Board.

**19. Expenses of witnesses.**—Every person who is summoned and appears as a witness before the Committee, the Advisory Committee or the Board shall be entitled to an allowance for expenses by him in accordance with the scale for the time being in force for payment of such allowances to witnesses appearing in civil courts in the State.

#### CHAPTER IV—COMPUTATION AND PAYMENT OF WAGES, HOURS OF WORK AND HOLIDAYS

**20. Mode of computation of the cash value of wages.**—The retail prices at the nearest market shall be taken into account in computing the cash value of wages paid in kind and of essential commodities supplied at concession rates. This computation shall be made in accordance with such directions as may be issued by the Central Government from time to time.

**21. Time and conditions of payment of wages and the deductions permissible from wages.**—(1) (i) The wage period with respect to any scheduled employment for which wages have been fixed shall not exceed one month and the wages of a worker in such employment shall be paid on a working day.

- (a) in the case of establishments in which less than one thousand persons are employed before the expiry of the seventh day, and
- (b) in the case of other establishments before the expiry of the tenth day, after the last day of the wage period in respect of which the wages are payable.
- (ii) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.
- (iii) The wages of an employed person shall be paid to him without deduction of any kind except those authorised by or under these rules.

*Explanation.*—Every payment made by the employed person to the employer or his agent shall, for the purposes of these rules, be deemed to be a deduction from wages.

(2) Deductions from the wages of a person employed in a scheduled employment shall be of one or more of the following kinds, namely:—

- <sup>2</sup>[(i) fines in respect of such acts and omissions on the part of the employed persons as may be specified by the Central Government by general or special order in this behalf;]
- (ii) deductions for absence from duty;
- (iii) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
- (iv) deductions for house accommodation supplied by the employer;
- (v) deductions for such amenities and services supplied by the employer as the Central Government, may by general or special order authorise.

*Explanation.*—The words 'amenities and services' in this clause do not include the supply of tools and protectives required for the purposes of employment;

- (vi) deductions for recovery of advances or for adjustment of over-payments of wages; Provided that such advances do not exceed an amount equal to wages for two calendar months of the employed person and, in no case, shall the monthly instalment of deduction exceed one-fourth of the wages earned in that month;
- (vii) deductions of income tax payable by the employed person;
- (viii) deductions required to be made by order of a court or other competent authority;
- (ix) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Fund Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income Tax Act, 1922, or any provident fund approved in this behalf by the Central Government during the continuance of such approval;
- (x) deductions for payment to co-operative societies or to a scheme of insurance approved by the Central Government.

(3) Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss caused by him shall explain to him personally and also in writing the act or omission or the damage or loss, in respect of which the fine or deduction is proposed to be imposed or made and give him an opportunity to offer any explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him.

(4) The amount of fine or deduction mentioned in sub-rule (3) shall be such as may be specified by the Central Government. All such deductions, and all realisation thereof shall be recorded in a register maintained in forms I, II and III, as the case may be. A return in form III shall be submitted annually by the employer.

<sup>3</sup>[(5) The amount of fine imposed under sub-rule (3) shall be utilised only for such purposes beneficial to the employees as are approved by the Central Government.]

(6) Nothing in this rule shall be deemed to affect the provisions of the Payment of Wages Act, 1936.

**22. Publicity to the minimum wage fixed under the Act.**—Notices <sup>4</sup>[in form IXA] containing the minimum rates of wages fixed together with extracts from the Act, the

<sup>2</sup> Substituted by Ministry of Labour Notification No. S.R.O. 1853 dated the 27th May, 1954. The acts and omissions in respect of which fines may be imposed have been specified by the Central Government under the Ministry of Labour Notification No. S.R.O. 3525 dated the 29th November, 1954.

<sup>3</sup> Subs. by Ministry of Labour Notification No. S.R.O. 2574 dated 2nd August, 1954.

<sup>4</sup> Ins. by the Ministry of Labour Notification No. S.R.O. 2727 dated the 11th Aug. 1954.

rules made thereunder and the name and address of the Inspector shall be displayed in English and in a language understood by the majority of the workers in the employment at such place as may be selected by the Inspector and shall be maintained in a clean and legible condition. Such notices shall also be displayed on the notice boards of all Sub-divisional and District Offices.

**23. Weekly Holidays.**—(1) Unless otherwise permitted by the Central Government, no worker shall be required or allowed to work in a scheduled employment, on the first day of the week (hereinafter referred to as the said day) except when he has or will have a holiday for the whole day on one of the five days immediately before or after the said day for which he shall receive payment equal to his average daily wages during the preceding week:

Provided that the weekly holiday may be substituted by another day:

Provided further that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Where in accordance with the provision of sub-rule (1) any worker works on the said day and has had a holiday on one of the five days immediately preceding it, the said day shall for the purposes of calculating his weekly hours of work, be included in the preceding week.

*Explanation.*—For the purposes of this rule 'week' shall mean a period of seven days beginning at midnight on Saturday night.

**24. Number of hours of work which shall constitute a normal working day.**—(1) The number of hours which shall constitute a normal working day shall be,—

(a) in the case of an adult, 9 hours.

(b) in the case of a child,  $4\frac{1}{2}$  hours.

(2) The working day of an adult worker shall be so arranged that inclusive of the intervals for rest, if any, it shall not spread over more than twelve hours on any day.

(3) The number of hours of work in the case of an adolescent shall be the same as that of an adult or a child according as he is certified to work as an adult or a child by a competent medical practitioner approved by the Central Government.

(4) The provisions of sub-rules (1) to (3) shall, in the case of workers in agricultural employment, be subject to such modifications as may, from time to time, be notified by the Central Government.

<sup>3</sup>[(5) No child shall be employed or permitted to work for more than  $4\frac{1}{2}$  hours on any day.]

**\*[24A. Night Shifts.**—Where a worker in a scheduled employment works on a shift which extends beyond midnight,

(a) a holiday for the whole day for the purposes of rule 23 shall in his case mean a period of twenty-four consecutive hours beginning from the time when his shift ends; and

(b) the following day in such a case shall be deemed to be the period of twenty-four hours beginning from the time when such shift ends, and the hours after midnight during which such worker was engaged in work shall be counted towards the previous day.]

**25. Extra wages for overtime.**—(1) When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages,

(a) in the case of employment in agriculture, at one and a half time the ordinary rate of wages;

(b) in the case of any other scheduled employment, at double the ordinary rate of wages.

*Explanation.*—The expression "ordinary rate of wages" means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus.

(2) A register showing overtime payment shall be kept in form IV.

(3) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948.

**26. Form of registers and records.**—(1) A Register of Wages shall be maintained by every employer <sup>7</sup>[at the workspot] and kept in such form as may be notified by the Central Government and shall include the following particulars:

(a) The minimum rates of wages payable to each person employed;

<sup>5</sup> Inserted by Ministry of Labour Notification No. S.R.O. 3304 dated the 20th Oct., 1954.

<sup>6</sup> Added by Notification No. S.R.O. 1932 dated the 6th October, 1953.

<sup>7</sup> Added by Notification No. S.R.O. 1112 dated the 2nd June, 1953.

- (b) The number of days for which each employed person worked over-time for each wage period;
- (c) The gross wages of each person employed for each wage period;
- (d) All deductions made from wages with an indication, in each case, of the kinds of deductions mentioned in sub-rule (2) of Rule 21;
- (e) The wages actually paid to each person employed for each wage period and the date of payment.

(2) Wage slips containing the aforesaid particulars and such other particulars as may be notified by the Central Government shall be issued by every employer to every person employed by him at least a day prior to the disbursement of wages.

(3) Every employer shall get the signature or the thumb impression of every person employed on the wages book and wage slip.

(4) Entries in the wage books and wage slips shall be authenticated by the employer or any person authorised by him in this behalf.

(5) A Muster Roll shall be maintained by every employer [at the workspot] and kept in form V.

#### CHAPTER V—CLAIMS UNDER THE ACT

27. **Application.**—An application under sub-section (2) of section 20 or sub-section (1) of section 21, by or on behalf of an employed person or group of employed persons, shall be made in duplicate in form VI and VII, as the case may be.

28. **Authorisation.**—The authorisation to act on behalf of an employed person or persons, under sub-section (2) of section 20 or of sub-section (1) of section 21 shall be given in form VIII by an instrument which shall be presented to the Authority hearing the application and shall form part of the record.

29. **Appearance of parties.**—(1) If an application under sub-section (2) of section 20 or section 21 is entertained, the Authority shall serve upon the employer by registered post a notice in form IX to appear before him on a specified date with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may hear and determine the application *ex parte*.

(3) If the applicant or his representative fails to appear on the specified date, the Authority may dismiss the application.

(4) An order passed under sub-rule (2) or sub-rule (3) may be set aside on sufficient cause being shown by the defaulting party within one month of the date of the said order, and the application shall then be reheard after service of notice on the opposite party of the date fixed for re-hearing, in the manner specified in sub-rule (1).

#### CHAPTER VI—SCALE OF COSTS IN PROCEEDINGS UNDER THE ACT

30. **Costs.**—(1) The Authority, for reasons to be recorded in writing, may direct that the cost of any proceeding pending before it shall not follow the event.

(2) The costs which may be awarded shall include:—

- (i) expenses incurred on account of court-fees;
- (ii) expenses incurred on subsistence money to witnesses; and
- (iii) pleader's fees to the extent of ten rupees provided that the Authority in any proceeding, may reduce the fees to a sum not less than five rupees or for reasons to be recorded in writing increase it to a sum not exceeding twenty-five rupees.

(3) Where there are more than one pleaders or more than one applicants or opponents the Authority may, subject as aforesaid, award to the successful party or parties such costs as it may deem proper.

31. **Court fees.**—The Court fee payable in respect of proceedings under Section 20 shall be—

- (i) for every application to summon a witness—One rupee in respect of each witness;
- (ii) for every application made by or on behalf of an individual—One rupee;

Provided that the Authority may, if in its opinion, the applicant is a pauper exempt him wholly or partly from the payment of such fees:

Provided further that no fee shall be chargeable

- (a) from persons employed in Agriculture; or
- (b) in respect of an application made by an Inspector.

#### \*[CHAPTER VII—MISCELLANEOUS

\*[32. **Saving.**—These Rules shall not apply in relation to any scheduled employment in so far as there are in force rules applicable to such employment, which in the opinion of the Central Government, make equally satisfactory provisions for the matters dealt with by these Rules and such opinion shall be final.]

\* Added by Notification No. S.R.O. 1276 dated the 19th June, 1953.

\* Substituted by Notification No. S.R.O. 463 dated the 18th February, 1955.

## FORM I—[Rule 21(4)]

## Register of Fines

.....Employer.....

Serial No.	Name	Father's/ Husband's name	Sex	Department	Nature and date of the offence for which fine imposed	Whether work- man showed cause against fine or not. If so, enter date	Rate of wages	Date and amount of fine imposed	Date on which fine realised	Remarks
1	2	3	4	5	6	7	8	9	10	11

## FORM II—[Rule 21(4)]

## Register of deductions for damage or loss caused to the employer, by the neglect or default of the employed persons

.....Employer.....

Serial No.	Name	Father's/ Husband's name	Sex	Department	Damage or loss caused with date	Whether worker showed cause against deduc- tion, if so, enter date	Date and amount of deduction imposed	Numbers of instalments, if any	Date on which total amount realised	Remarks
1	2	3	4	5	6	7	8	9	10	11

FORM III—[Rule 21(4)]

*Deduction from wages*

Return for the year ending the 31st December.....

1. Name of the employer and postal address.....

2. Total number of persons employed { Adults.....  
Children.....

3. Total wages paid.....

4. Number of cases and amounts realised as:—  
.....

No. of cases:	Amount
(a) Fines.....	
(b) Deductions for damage or loss.....	
(c) Deductions for breach of contract.....	
5. Disbursements from Fine Fund	
Amount	Purpose
Rs.	

Dated.....19

Signature.....

Designation.....

## FORM IV—[Rule 25(2)]

## Overtime register for workers

		Month ending 19 .												
Serial No.	Name	Father's/ Husband's Name	Sex	Designation and Depart- ment	Dates on which over- time worked	Extent of overtime on each occasion	Total overtime worked or pro- duction in case of piece workers	Nor- mal hours	Nor- mal rate	Over- time rate	Normal earnings	Overtime earnings	Total earnings	Dates on which over- time pay- ment made
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

## FORM V—[Rule 26(5)]

## Muster Roll

Name of Establishment.....					Place.....														
S. No.	Name	Father's/Hus- band's name	Sex	Nature of work	For the period ending.....					REMARKS									
					1	2	3	4	5										

FORM VI

[Form of Application by an Employee under Section 20(2)]

In the Court of the Authority appointed under the Minimum Wages Act, 1948 for  
..... Area.

Application No. \_\_\_\_\_ of 19 \_\_\_\_ .

(1) \_\_\_\_\_  
(2) \_\_\_\_\_ } Applicant(s)  
(3) \_\_\_\_\_

(through \_\_\_\_\_ a Legal Practitioner \_\_\_\_\_  
official of \_\_\_\_\_ Union which is a registered Trade Union).  
Address \_\_\_\_\_

*Versus*

(1) \_\_\_\_\_  
(2) \_\_\_\_\_ } Opponents.  
(3) \_\_\_\_\_

Address \_\_\_\_\_

The applicant(s) above-named beg(s) respectfully to submit as follows:—

- (1) that \_\_\_\_\_  
(2) that \_\_\_\_\_

The applicant(s) has (have) been paid wages at less than the minimum rate of wages.

The applicant(s) estimate(s) the value of the relief sought by him (them) at the sum  
of Rs. \_\_\_\_\_.

The applicant(s) pray(s) that a direction may be issued under sub-section (3) of  
Section 20 for:—

- (a) Payment of the difference between the wages due according to the minimum rate  
of wages fixed by Government and the wages actually paid, and  
(b) Compensation amounting to Rs. \_\_\_\_\_

The applicant(s) beg(s) leave to amend or add to or make alterations in the application  
if any and when necessary.

Signature or thumb impression of the  
employee(s), legal practitioner or  
official of a registered trade union  
duly authorised.

Dated.....

The applicant(s) do(es) solemnly declare that what is stated above is true to the  
best of his (their) knowledge, belief and information.

This verification is signed at \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_ .

Signature or thumb impression of the  
employee(s), legal practitioner or  
official of a registered trade union  
duly authorised.

\*When the application is by a group of employees, the thumb impression or signatures  
of two of the applicants need be put to the application and a full list of applicants should  
be attached to the application.



## FORM VII

[Form of Application by an Inspector or person acting with the permission of the Authority under Section 20(2).]

In the Court of the Authority appointed under the Minimum Wages Act, 1948 for  
..... Area.

Application No. .... of 19 ..

(1) ..... Applicant.

Address .....

Versus

(1) ..... Opponent.

Address .....

The applicant above-named begs respectfully to submit as follows:—

(1) that

(2) that

The opponent is bound to pay wages at the minimum rate of wages fixed by Government but he has paid less wages to the following employees:—

(1) .....

(2) .....

(3) .....

The applicant estimates the value of the relief sought for the employees at the sum of Rs. ....

The applicant prays that a direction may be issued under sub-section (3) of Section 20 for:—

(a) Payment of the difference between the wages due according to the minimum rate of wages fixed by Government and the wages actually paid, and

(b) Compensation amounting to Rs. ....

The applicant begs leave to amend or add to or make alterations in the application if and when necessary.

Date.....

Signature.....

The applicant does solemnly declare that what is stated above is true to the best of his knowledge, belief and information. This verification is signed at.....on.....day  
.....19 ..

## FORM VIII

[Form of Authority in favour of a Legal Practitioner or any Official of a Registered Trade Union referred to in Section 20(2) ]

In the Court of the Authority appointed under the Minimum Wages Act, 1948 for  
..... Area.

Application No. .... of 19 ..

(1) .....  
(2) .....  
(3) ..... } Applicant(s)

Versus

(1) .....  
(2) .....  
(3) ..... } Opponent(s).

I hereby authorise Mr. ...., a legal practitioner an official of the registered trade union of ..... to appear and act on my behalf in the above-described proceeding and to do all things incidental to such appearing and acting.

Date.....

Signature or thumb impression of the employee.

FORM IX

[Form of Summons to the Opponent to appear before the Authority when an Application under Sub-section (2) of Section 20 or under Section 21 is entertained.]

(Title of the application).

To

(Name, description and place of residence.)

WHEREAS.....has made the abovesaid application to me under the Minimum Wages Act, 1948, you are hereby summoned to appear before me in person or by a duly authorised agent, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the.....day of.....19.....at.....o'clock in the.....noon, to answer the claim; and as the day fixed for the appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Take notice that in default of your appearance on the day before-mentioned, the application will be heard and determined in your absence.

Date.....

[FORM IXA—(Rule 22)]

Notices

EXTRACTS FROM THE MINIMUM WAGES ACT 1948 AND THE RULES MADE THEREUNDER

I. *Whom the Act affects*

1. (a) The Act applies to persons engaged on scheduled employments on specified class of work in respect of which minimum wages have been fixed.
- (b) No employee can give up by contract or agreement his rights in so far as it purports to reduce the minimum rates of wages fixed under the Act.

II. *Definition of Wages*

1. 'Wages' means all remuneration payable to an employed person on the fulfilment of his contract of employment. It excludes—

- (i) the value of any house—accommodation—supply of light, water, medical attendance or any other amenity or any service extended by general or special order of the appropriate Government;
- (ii) Contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of Social Insurance;
- (iii) the travelling allowance or the value of any travelling concession;
- (iv) the sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;
- (v) Gratuity payable on discharge.

2. The Minimum rate of wages may consist of—

- (i) a basic rate of wages and a special allowance called the cost of living allowance;
- (ii) a basic rate of wage with or without a cost of living allowance and the cash value of any concession, like supplies of essential commodities at concession rates;
- (iii) an all inclusive rate comprising of basic rate, cost of living allowance and cash value of concession, if any.

3. The minimum wages payable to employees of scheduled employments notified under section 5 read with section 3 or as revised from time to time under section 10 read with section 3 may be—

- (a) a minimum time rate,
- (b) a minimum piece rate,
- (c) a guaranteed time rate,
- (d) an over-time rate;

differing with (1) different scheduled employments, (2) different classes of work, (3) different localities, (4) different wage periods and (5) different age groups.

\* Inserted by the Ministry of Labour Notification No. S.R.O. 2727 dated the 11th August, 1954, vide Gazette of India, 1954, Part II—Sec. 3, page 2041.

### III. *Computation and conditions of payment*

The employer shall pay to every employee engaged in scheduled employment under him wages at a rate not less than the minimum rate of wages fixed for that class of employee.

The minimum wages payable under this Act shall be paid in cash unless the Government authorises payment thereof either wholly or partly in kind.

Wage periods shall be fixed for the payment of wages at intervals not exceeding one month.

Wage shall be paid on a working day within seven days of the end of the wage period or within ten days if 1000 or more persons are employed.

The wages of a person discharged shall be paid not later than the second working day after his discharge.

If an employee is employed on any day for a period less than the normal working day he shall be entitled to receive wages for a full normal working day provided his failure to work is not caused by his unwillingness to work but by the omission of the employer to provide him with work for that period.

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work wages at not less than the minimum rate in force in respect of each such class.

Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed, the employer shall pay to such employee wages at not less than the minimum time rate.

### IV. *Hours of Work and Holidays*

The number of hours which shall constitute a normal working day shall be—

- (a) in the case of an adult, 9 hours,
- (b) in the case of a child, 4½ hours.

The working day of an adult worker inclusive of the intervals of rest shall not exceed twelve hours on any day.

The employer shall allow a day of rest with pay in every period of seven days. Ordinarily Sunday the first day of the week shall be the holiday.

When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall in respect of overtime worked be entitled to wages in scheduled employment other than agriculture, at double the ordinary rate of wages.

### V. *Fines and Deductions*

No deductions shall be made from wages except those authorised by or under the rules.

Deductions from the wages shall be one or more of the following kinds, namely:—

- (i) Fines: An employed person shall be explained personally and also in writing the act or omission in respect of which the fine is proposed to be imposed and given an opportunity to offer any explanation in the presence of another person. The amount of the said fine shall also be intimated to him. It shall be such as may be specified by the Central Government. It shall be utilised in accordance with the directions of the Central Government;
- (ii) Deductions for absence from duty;
- (iii) Deductions or damage to or loss of goods entrusted to the employee for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default. The employed person shall be explained personally and also in writing the damage or loss, in respect of which the deduction is proposed to be made and given an opportunity to offer any explanation in the presence of another person. The amount of the said deduction shall also be intimated to him. It shall be such as may be specified by the Central Government;
- (iv) deductions for house accommodation supplied by the employer;
- (v) deductions for such amenities and services supplied by the employer as the Central Government may by general or special order authorise. These will not include the supply of tools and protectives required for the purposes of employment;
- (vi) deductions for recovery of advances or for adjustment of over-payment of wages; such advances shall not exceed an amount equal to wages for two calendar

- months of the employed person and the monthly instalment of deduction shall not exceed one-fourth of the wages earned in that month;
- (vii) deductions of income-tax payable by the employed person;
  - (viii) deductions required to be made by order of a court or other competent authority;
  - (ix) deductions for subscriptions to and for repayment of advances from any provident fund;
  - (x) deductions for payment to co-operative societies or to a scheme of insurance approved by the Central Government.

#### VI. *Maintenance of Registers and Records*

Every employer shall maintain a register of wages specifying the following particulars for each period in respect of each employed person.

- (a) The minimum rates of wages payable.
- (b) The number of days in which over-time was worked.
- (c) The gross wages.
- (d) All deductions made from wages.
- (e) The wages actually paid and the date of payment.

Every employer shall issue wage slips containing prescribed particulars to every person employed.

Every employer shall get the signature or the thumb impression of every person employed on the wage-book and wage-slips.

Entries in the wage-books and wage-slips shall be properly authenticated by the employer or his agent.

A muster roll shall be maintained by every employer and kept in the form prescribed.

Every employer shall keep exhibited at such places selected by the Inspector, notices in English and in language understood by a majority of the workers of the following particulars in a clean and legible form—

- (a) Minimum rate of wages.
- (b) Extracts from the Acts and the Rules made thereunder.
- (c) Name and address of the Inspector.

#### VII. *Inspections*

An Inspector can enter in any premises and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purposes of the Act.

#### VIII. *Claims and Complaints*

Where an employee is paid less than the minimum rates of wages fixed for his class of work, or less than the amount due to him under the provisions of this Act, he can make an application in the prescribed form within six months to the authority appointed for the purpose. An application delayed beyond this period may be admitted if the authority is satisfied that the applicant had sufficient cause for not making the application within such period.

Any legal practitioner, official of a registered trade union, Inspector under the Act or other person acting with the permission of the Authority can make the complaint on behalf of an employed person.

A single application may be presented by or on behalf of any number of persons belonging to the same factory the payment of whose wages has been delayed.

A complaint regarding less payment of notified wages under section 22 of the Act can be made to the court only with the sanction of the Authority within one month of the grant of such sanction.

A complaint under section 22 of the Act can be made to the court only by or with the sanction of an Inspector within six months of the date on which the offence is alleged to have been committed.

#### IX. *Action by the Authority*

The Authority may direct the payment of the amount by which the minimum wages payable exceed the amount actually paid together with the payment of compensation not exceeding ten times the amount of such excess. The Authority may direct payment of compensation in cases where the excess is paid before the disposal of the application.

If a malicious or vexatious complaint is made, the Authority may impose a penalty not exceeding Rs. 50 on the applicant and order that it be paid to the employer.

Every direction of the Authority shall be final.

**X. Penalty for Offence under the Act**

Any employer who pays to any employee less than the amount due to him under the provisions of this Act or infringes any order or rules in respect of normal working day, weekly holiday, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Any employer who fails to maintain a register or record required to be maintained under section 18, shall be punishable with fine which may extend to five hundred rupees.

**XI. Minimum Rates of Wages Fixed**

Name of undertaking.....

Serial No.	Category of employees	Minimum Wages

**XII. Name and Address of the Inspector(s)**

Name	Address

**FORM X—[Rule 26(1)]****Register of wages**

Name of the Establishment..... Place.....

Name of the worker	Wage period	Minimum rates of wages payable	Dates on which over-time worked	Gross wages payable	Deduction if any	Actual wages paid	Signature or thumb impression of the employee

**FORM XI—[Rule 26(2)]****Wage Slips**

Name of the Establishment..... Place.....

Name of the worker	Wage period	Minimum rates of wages payable	Dates on which over-time worked	Gross wages payable	Deduction if any	Actual wages paid	Signature of the employee

# MINIMUM WAGES (CENTRAL ADVISORY BOARD) RULES, 1949

## Arrangement of Paragraphs

1. Name.
2. Definition.
3. Constitution of the Central Advisory Board.
4. Term of office of members.
5. Eligibility for renomination.
6. Resignation.
7. Cessation and restoration of membership.
8. Meetings.
9. Notice of meetings.
10. Chairman of the meeting.
11. Quorum.
12. Disposal of business.
13. Method of voting.
14. Decision by majority.
15. Proceedings of the meeting.

## MINIMUM WAGES (CENTRAL ADVISORY BOARD) RULES, 1949<sup>1</sup>

In exercise of the powers conferred by section 29 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government is pleased to make the following rules, the same having been previously published as required by the said section, namely:—

### PRELIMINARY

1. These rules may be called the Minimum Wages (Central Advisory Board) Rules, 1949.
2. **Definition.**—In these rules, unless there is anything repugnant in the subject or context.
  - (i) "the Act" means the Minimum Wages Act, 1948 (XI of 1948);
  - (ii) "Board" means the Central Advisory Board constituted under section 8 of the Act;
  - (iii) "Chairman" means the Chairman of the Central Advisory Board; and
  - (iv) "Member" means a member of the Central Advisory Board.

<sup>2</sup>[3. **Constitution of the Central Advisory Board.**—The Board shall consist of the following members, to be nominated by the Central Government, namely:—

- (i) a Chairman;
- (ii) two officers of the Central Government, one of whom shall be the vice-chairman;
- (iii) one member each from the States of Bombay, West Bengal, Madras, Uttar Pradesh, Bihar, Madhya Pradesh, Hyderabad and Mysore;
- (iv) two members by rotation from the States of Assam, Orissa, Punjab and Saurashtra;
- (v) two members by rotation from the States of Patiala and East Punjab States Union, Travancore-Cochin, Madhya Bharat and Rajasthan;
- (vi) two members representing Part 'C' States;
- (vii) seventeen members representing employers in the scheduled employments;
- (viii) seventeen members representing employees in the scheduled employments.]

4. **Term of office of members.**—(1) Subject to the provisions of these rules, the term of office of members, shall be two years commencing from the date of their appointment:

Provided that a member shall, notwithstanding the expiry of the said period of two years, continue to hold office until the appointment of his successor.

(2) A member nominated to fill a casual vacancy shall hold office, only so long as the member in whose place he is nominated would have been entitled to hold office if the vacancy had not occurred.

(3) The official members shall hold office until replaced by others.

5. **Eligibility for renomination.**—An outgoing member shall be eligible for renomination.

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. LWI-24(13) dated the 25th October, 1949 in Gazette of India, 1949, Part I—Sec. 1, page 1532.

<sup>2</sup> Substituted by the Ministry of Labour Notification No. S.R.O. 1330 dated the 28th August, 1951.

**6. Resignation.**—(1) A member other than the Chairman may resign his office by a letter in writing addressed to the Chairman.

(2) The Chairman may resign his office by a letter addressed to the Central Government.

(3) A member shall be deemed to have vacated his office—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Act, he has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude.

(4) The Central Government may cancel the nomination of a member if, in its opinion, he has ceased to represent the interest on whose behalf he was nominated.

**7. Cessation and restoration of membership.**—(1) If a member fails to attend three consecutive meetings of the Board, he shall cease to be a member thereof.

(2) A person, who ceases to be a member under sub-rule (1) shall be informed of such cessation by a letter sent to him by registered post within fifteen days from the date of cessation. The letter shall indicate that if he desires restoration to membership, he may apply in writing in this behalf to the Chairman within thirty days from the receipt of such letter. Every such application shall contain the reason for the failure to attend three consecutive meetings. The application for restoration to membership, if received, shall be placed before the Board and if a majority of members present at the meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restored to membership immediately after a resolution to that effect is adopted.

<sup>3</sup>[8. **Meetings.**—The Chairman may, whenever he thinks fit and shall within fifteen days of the receipt of a requisition in writing from not less than one-half of the members, call a meeting of the Board].

**9. Notice of meetings.**—(1) The Chairman shall decide the date, time and place of every meeting. Ordinarily, notice of not less than 21 days from the date of posting thereof shall be given to every member for each meeting of the Board. A list of business proposed to be transacted at the meeting shall be attached with the notice.

(2) If it is necessary to convene an emergent meeting at least 10 days notice shall be given to every member.

**10. Chairman of the meeting.**—The Chairman or, in his absence, the Vice-Chairman shall preside at the meetings. In the event of the absence of both the Chairman and Vice-Chairman, the members present may elect one amongst themselves to preside at the meeting.

**11. Quorum.**—No business shall be transacted at any meeting unless at least fifteen members are present:

Provided that if at any meeting less than fifteen members are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending it.

**12. Disposal of business.**—Any business which requires consideration by the Board shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon only if it is supported by not less than a two-thirds majority of the members of the Board. Where there is no such majority or where the Chairman so decides, the question shall be considered at a duly convened meeting of the Board.

**13. Method of voting.**—Voting shall ordinarily be by show of hands. If any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may desire.

**14. Decision by majority.**—Every question at a meeting of the Board shall be decided by a majority of the votes of the members present and voting:

Provided that in the case of equality of votes, the Chairman or the person presiding shall have a casting vote.

<sup>3</sup> Substituted by Notification No. S.R.O. 1257 dated the 9th July, 1952.

15. **Proceedings of the meeting.**—(1) The proceedings of each meeting showing *inter alia* the names of the members present thereat shall be forwarded to each member of the Board, to the Central and Provincial Governments and to all State Governments where the Act is in force, as soon after the meeting as possible, and, in any case, not less than seven days before the next meeting.

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next

### Inspectors under the Minimum Wages Act, 1948

S.R.O. 1852 dated the 3rd October, 1953.—In exercise of the powers conferred by sub-section (1) of section 19 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby directs that for the Schedule to the notification of the Government of India in the Ministry of Labour No. S.R.O. 1512, dated the 24th September, 1951, the Schedule hereto annexed shall be substituted.

#### SCHEDULE

Name of the Officer 1	Local limits 2
Chief Labour Commissioner (Central)	The whole of India except the State of Jammu and Kashmir.
Welfare Adviser to the Chief Labour Commissioner (Central)	The whole of India except the State of Jammu and Kashmir.
Regional Labour Commissioner (Central), Bombay	The States of Bombay, Saurashtra and Kutch.
Conciliation Officer (Central), Bombay	
Conciliation Officer (Central), Poona	
Conciliation Officer (Central), Rajkot	
Labour Inspector (Central), Bombay-I	
Labour Inspector (Central), Bombay-II	
Labour Inspector (Central), Bombay-III	
Labour Inspector (Central), Poona	
Labour Inspector (Central), Ahmedabad	
Labour Inspector (Central), Bhusawal	The States of West Bengal (excluding coal mines), Assam, Manipur and Tripura.
Labour Inspector (Central), Hubli	
Labour Inspector (Central), Rajkot	
Regional Labour Commissioner (Central), Calcutta	
Conciliation Officer (Central), Calcutta-I	
Conciliation Officer (Central), Calcutta-II	
Conciliation Officer (Central), Gauhati	
Labour Inspector (Central), Calcutta-I	
Labour Inspector (Central), Calcutta-II	
Labour Inspector (Central), Calcutta-III	
Labour Inspector (Central), Gauhati	The States of Bihar, West Bengal (coal mines only), Orissa and Vindhya Pradesh.
Labour Inspector (Central), Kharagpur	
Labour Inspector (Central), Dibrugarh	
Regional Labour Commissioner (Central), Dhanbad	
Conciliation Officer (Central), Asansol	
Conciliation Officer (Central), Cuttack	
Conciliation Officer (Central), Dhanbad-I	
Conciliation Officer (Central), Dhanbad-II	
Conciliation Officer (Central), Patna	
Labour Inspector (Central), Asansol	
Labour Inspector (Central), Bermo	
Labour Inspector (Central), Patna	
Labour Inspector (Central), Giridih	
Labour Inspector (Central), Jharia	
Labour Inspector (Central), Katrasgarh	
Labour Inspector (Central), Kodarma	
Labour Inspector (Central), Muzaffarpur	
Labour Inspector (Central), Cuttack	
Labour Inspector (Central), Rewa	



**Regional Labour Commissioner (Central), Kanpur**

Conciliation Officer (Central), Delhi	.	.	.	.
Conciliation Officer (Central), Kanpur	.	.	.	.
Labour Inspector (Central), Gorakhpur	.	.	.	.
Labour Inspector (Central), Bareilly	.	.	.	.
Labour Inspector (Central), Lucknow	.	.	.	.
Labour Inspector (Central), Allahabad	.	.	.	.
Labour Inspector (Central), Kanpur	.	.	.	.
Labour Inspector (Central), Delhi-I	.	.	.	.
Labour Inspector (Central), Delhi-II	.	.	.	.
Labour Inspector (Central), Ferozepur	.	.	.	.
Labour Inspector (Central), Ambala	.	.	.	.

The States of Uttar Pradesh, Punjab, Patiala and East Punjab States Union, Himachal Pradesh, Delhi and Bilaspur.

**Regional Labour Commissioner (Central), Madras**

Conciliation Officer (Central), Madras	.	.	.	.
Conciliation Officer (Central), Cochin	.	.	.	.
Labour Inspector (Central), Madras-I	.	.	.	.
Labour Inspector (Central), Madras-II	.	.	.	.
Labour Inspector (Central), Bezwada	.	.	.	.
Labour Inspector (Central), Vizagapatam	.	.	.	.
Labour Inspector (Central), Madurai	.	.	.	.
Labour Inspector (Central), Bangalore	.	.	.	.
Labour Inspector (Central), Coimbatore	.	.	.	.
Labour Inspector (Central), Kolar (Gold Fields)	.	.	.	.
Labour Inspector (Central), Trivandrum	.	.	.	.

The States of Madras, Mysore, Travancore-Cochin and Coorg.

**Regional Labour Commissioner (Central), Nagpur**

Conciliation Officer (Central), Nagpur	.	.	.	.
Conciliation Officer (Central), Secunderabad	.	.	.	.
Conciliation Officer (Central), Ajmer	.	.	.	.
Labour Inspector (Central), Jubbulpore	.	.	.	.
Labour Inspector (Central), Nagpur	.	.	.	.
Labour Inspector (Central), Raipur	.	.	.	.
Labour Inspector (Central), Secunderabad	.	.	.	.
Labour Inspector (Central), Kotah Gadium	.	.	.	.
Labour Inspector (Central), Ajmer	.	.	.	.
Labour Inspector (Central), Jodhpur	.	.	.	.
Labour Inspector (Central), Ratlam	.	.	.	.
Labour Inspector (Central), Bhilwara	.	.	.	.
Labour Inspector (Central), Parasia (Coal fields)	.	.	.	.

The States of Madhya Pradesh, Hyderabad, Ajmer, Rajasthan, Madhya Bharat and Bhopal.

**Acts or Omissions in respect of which fines may be imposed**

S.R.O. 3525 dated the 29th November, 1954.—In exercise of the powers conferred by clause (i) of sub-rule (2) of rule 21 of the Minimum Wages (Central) Rules, 1950, the Central Government hereby specify the acts and omissions in respect of which fines may be imposed as follows, namely:—

- (1) Absence from duty without leave without sufficient cause [fine may be imposed only as an alternative to the deduction permissible under clause (ii) of sub-rule (2) of rule 21].
- (2) Negligence in work or neglect of work.
- (3) Smoking on the premises of the work place except in places where smoking is permitted.
- (4) Entering or leaving, or attempting to enter or leave, the premises except by the gate provided for the purpose.
- (5) Absence without leave or without sufficient cause from appointed work in the establishment.
- (6) Breach of any rules or instructions for the maintenance and running of any department and maintaining its cleanliness.
- (7) Damage to work in process or to any other property of the employer.
- (8) Interference with any safety devices installed in the premises.
- (9) Distributing or exhibiting inside the premises handbills, pamphlets or posters without the previous sanction of the employer.
- (10) Misconduct (fine may be imposed only as an alternative to a heavier permissible punishment).

# SOCIAL SECURITY LEGISLATION

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## SOCIAL SECURITY LEGISLATION

### Social Security, Social Insurance and Social Assistance

"Social Security is the security that society furnishes, through appropriate organisation, against certain risks to which its members are exposed. These risks are essentially contingencies against which the individual of small means cannot effectively provide by his own ability or foresight alone or even in private combination with his fellows."<sup>1</sup> These risks are sickness, maternity, invalidity, employment injuries, unemployment, emergency expenses, old age and death. It is the security against the above risks which the individual member of the society can not effectively provide by his own ability or in combination with others. Social security is considered in modern states as indispensable to strike at the root of poverty, unemployment and disease. It includes security of employment, security of income and security of the ability to work and this can be assured by a system of social insurance and social assistance schemes covering these risks. Social security is a comprehensive system which aims at an unified approach covering all individuals and all risks. Social insurance or social assistance provides only partial security and they are two main divisions of social security. The social security system thus consists of the complex of social insurance and social assistance schemes.

Social security systems in most of the countries have been introduced not according to one comprehensive plan as was done in U. S. A. in 1935 and New Zealand in 1938 but built up piece by piece. Social insurance has been first introduced and where necessary, it has been co-ordinated and integrated with social assistance schemes. "A social assistance scheme provides benefits for persons of small means granted as of right in amounts sufficient to meet a minimum standard of need and financed from taxation and a social insurance scheme provides benefits for persons of small earnings granted as of right in amounts which combine the contributory effort of the insured with subsidies from the employer and the State."<sup>2</sup> The range of contingencies or risks covered by social insurance extends to sickness, maternity, employment injury, invalidity, old age, death of the breadwinner, unemployment and emergency expenses. The present-day development shows that social insurance and social assistance are moving closer to one another and social insurance tends to absorb social assistance in its final development. Social security measures, therefore, provide a basic income in case of inability to work including old age, inability to obtain remunerative work or the death of a breadwinner; assistance for dependent children and comprehensive medical care.

### Early Social Security Measures

The system of compulsory social insurance was first initiated in Germany by Chancellor Bismark; compulsory scheme of sickness, industrial injury and burial insurance were introduced in Germany from 1883 to 1885 and the insurance for old age and invalidity pensions were introduced in 1889.

### Social Security Systems in U. S. A.

The Social Security Act of 1935 in U. S. A. was the first concerted nationwide attack by all levels of government on problem of economic security for wage earners and their families. The major social security programmes "include a Federal social insurance system—old age and survivors' insurance—which insures the overwhelming majority of the working population against the loss of earnings

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<sup>1</sup> Approaches to Social Security, I. L. O., Montreal, 1942, p. 80.

<sup>2</sup> *Ibid.*, p. 81.

resulting from old age or the death of the family bread-winner. Most workers in industry and commerce are protected against temporary interruption of earnings due to unemployment through a Federal-State programme by each of the 48 States. By means of a tax-offset device, the Social Security Act encouraged the individual States to enact and administer these unemployment insurance programmes. The third income-maintenance programme established by this Act is a Federal-State programme of assistance to special groups of persons in financial need: the aged, the blind, dependant children and permanently and totally disabled persons. The public assistance programme is administered by the several States with Federal financial participation. The 1935 Act also provided Federal grants-in-aid to the States for improving and strengthening their maternal and child health services, services for crippled children and child welfare services. Federal responsibility for these basic social security programmes, originally placed in the Social Security Board is now (except for unemployment insurance) vested in the Social Security Administration of the Department of Health, Education and Welfare."<sup>3</sup>

### **Social Security Systems in New Zealand**

The Social Security Act of 1938 is a single legislative enactment which incorporates all social security benefits and provides for financing of a united scheme. The Act came into force on the 1st of April, 1939. "In New Zealand, social security is regarded basically as a comprehensive system of State assistance in the form of, first, cash benefits to provide subsistence to those who may suffer want through age, sickness, widowhood, orphanhood, unemployment or other exceptional conditions and secondly, a universal health service designed to maintain and promote the health and general welfare of the community."<sup>4</sup>

Social security systems in New Zealand are divided into three heads:—  
(1) cash benefits, (2) health benefits and (3) finance.

The cash benefits are administered by the Social Security Department under the direction of Social Security Commission and include the following: (a) superannuation benefits; (b) widows' benefits; (c) orphans' benefits; (d) family benefits; (e) invalids' benefits; (f) miners' benefits; (g) sickness benefits; (h) unemployment benefits; (i) emergency benefits; (j) war service men's dependant's allowance. The emergency benefits are payable to any person who by reason of age, or physical and mental incapacity, cannot earn sufficiently and is not getting any other cash benefit. The war service men's dependants' allowance is a novel method integrating war pension scheme with social security system and is payable to the parents of the deceased service men.

The health benefits available to resident population are administered by the Department of Health and include the following—(a) maternity benefits; (b) hospital benefits; (c) medical benefits; (d) pharmaceutical benefits and (e) supplementary benefits consisting of x-ray, massage, nursing, laboratory and dental services.

Financing of the social security scheme is made from the Social Security Fund consisting of social security contribution at the flat rate of 7½ per cent on all salaries, wages and other income received by any person of 16 years of age and over and resident in the country and most companies resident in New Zealand and annual grants from the Consolidated Fund of the Government.

The employment injury benefits are not covered under the social security scheme and are governed under the provisions of the Workers' Compensation Act, 1922 which provides for compulsory insurance of employees against injuries

<sup>3</sup> I. L. O.—Systems of Social Security, United States, Geneva, 1954, pages 1-2.

<sup>4</sup> I. L. O.—Systems of Social Security, New Zealand, Geneva, 1949, page 1.

received in course of their employment and are administered by the State Fire and Accident Insurance Office.

### **Social Security Systems in Great Britain**

The social insurance was developed in England with the Workmen's Compensation Act of 1897. The National Health Insurance Act of 1911 inaugurated a scheme of compulsory insurance of manual workers between the ages of 14 and 65 in England against ill-health and unemployment. The Old Age Pensions Act of 1908 was an example of national assistance in England. Sir William Beveridge was appointed in June, 1941 to prepare a unified scheme of Social Security and his Report on Social Insurance and Allied Services published in November, 1942 is a well-known treatise on Social Security. The main principles of the Beveridge Plan were accepted by the Government in February, 1943 and given effect to in a series of laws.

The Family Allowances Act of 1945 which came into force on the 6th August, 1946, is the first post-war social security legislation in England and it provides for the payment of allowance for each child in the family other than the elder or eldest at the rate of five shillings a week from the date of birth up till the age of 16 years whilst the child continues in full time education or is an apprentice. There are no income limits attached to the receipt of this allowance.

The National Insurance Act of 1946 which has come into operation on the 5th July, 1948, provides for a unified and comprehensive scheme of national insurance which applies to every one in Great Britain over school leaving age and establishes "an extended system of national insurance providing pecuniary payments by way of unemployment benefit, sickness benefit, maternity benefit, retirement pension, widows' benefit, guardian's allowance and death grant".

The National Insurance (Industrial Injuries) Act of 1946 which came into force on the 5th July, 1948, replaces the Workmen's Compensation Acts of 1925-1945 and provides for injury benefit, disablement benefit and death benefit to the insured injured as well as his dependants for personal injuries caused by accident arising out of and in course of his employment and also for prescribed diseases due to the nature of his employment. Claims for benefits under the National Insurance Acts are dealt with by independent statutory authorities.

Risks or needs not covered by these two Acts are covered by the National Assistance Act of 1948 which came into force on the 5th July, 1948 and which provides for a unified scheme of financial assistance to persons in need, in replacement of the different poor law services provided by the State and local authority. It makes further provisions for the welfare of the disabled, sick, aged, etc. and for regulating charities and homes for them. Under the new scheme of national assistance, any person aged 16 or over, who is without sufficient means of support, can apply to National Assistance Board.

The National Health Service Act of 1946 which also came into force on the 5th July, 1948, provides for the establishment of a comprehensive "free for all" national health service—medical treatment, hospitalisation, dental attention, etc., available for all citizens without exception and without distinction whether they are in the National Insurance Scheme or not. The State is subsidising the new health services to the tune of several million pounds.

The National Insurance, National Assistance, Industries Injuries, Family Allowances and National Health Service Acts complete a triad of social security measures envisaged in the great Social Security Plan in Great Britain which seeks to better the lot of common man and promote the social security and health of every citizen, rich or poor, from the cradle to the grave, and which is without parallel in its magnitude in any other country in the world.

### **International Standards on Social Security**

The International Labour Organisation has adopted a series of Conventions and Recommendations from 1919 to 1952 laying down International Standards for workmen's compensation, sickness insurance, pension insurance, invalidity, old age and survivors' insurance, maternity protection, unemployment provision and social security with the object to search for a sound solution of the problem of insecurity of the workers and to provide a basic income to all in need of protection and comprehensive medical care.

Comprehensive social security measures have been suggested in the Income Security Recommendation No. 67 and the Medical Care Recommendation No. 69 adopted at the twenty-sixth session held at Philadelphia on the 20th April, 1944 and the Social Security (Minimum Standards) Convention No. 102 adopted at the thirty-fifth session held at Geneva on the 4th June, 1952. Recommendation No. 67 on income security advocates building up of an income security organisation comprising a unified social insurance scheme supplemented by a social assistance scheme. Recommendation No. 69 on medical care deals with the medical care service designed ultimately to embrace the entire population. Social Security (Minimum Standards) Convention No. 102 covers nine branches of social security—(1) medical care, (2) sickness benefit, (3) unemployment benefit, (4) old age benefit, (5) employment injury benefit, (6) family benefit, (7) maternity benefit, (8) invalidity benefit and (9) survivors' benefit and prescribes minimum standards for each branch of social security relating to conditions, rate and duration of benefits. The Convention also contains a special provision that for the purpose of ratification, at least three out of the above nine branches of social security should be adopted, as it will not be possible for all countries to enact legislations covering all the nine benefits. The Convention is in force in seven countries.

### **Social Security Systems in India**

Social security systems as mentioned before and prevalent in U. K., U. S. A. and New Zealand, are still in the infant stage of development in India. The workmen's compensation, maternity benefit and provident fund laws undertaken by the Central and State Governments from 1923 onwards embody the principle of social insurance on a limited scale for certain specified categories of wage earners. The workmen's compensation and maternity benefit legislations have developed out of the doctrine of employer's liability.

The subject of health insurance for industrial workers are first discussed in the Indian Legislature in 1927 when the question of ratification of the two I. L. O. Conventions 24 and 25 came up for discussion. The Government of India accepted the view that there was necessity for making some provisions for the workers during sickness but expressed their inability to ratify the two Conventions on the ground of practical difficulties. The Government invited suggestions from the Provincial Governments about the possibility of introducing provisions against sickness. The Government did not take any step on receipt of the reports of the Provincial Governments in view of the impending appointment of the Royal Commission on Labour in India, which was appointed in 1929. The Royal Commission reviewed the reports of the Provincial Governments and suggested a tentative scheme based on the assumption that the responsibility for the medical and financial benefits should be separated, the former to be undertaken by the Government on a non-contributory basis and the latter through employers on contributory basis by the employers and workers. The Royal Commission also discussed the problem of old age provisions and recommended that until it was found practicable to institute schemes of old age pensions or provident funds, the Government should encourage private employers to inaugurate such schemes.

The subject of health insurance was discussed in the first, second and third conferences of Labour Ministers held in 1940, 1941 and 1942 and Prof. B. P. Adarkar was appointed as a Special Officer in 1943 to prepare a scheme of health insurance of industrial workers. Prof. Adarkar's Report submitted in 1944 was examined by two I. L. O. experts and after discussing the revised scheme in the sixth Labour Conference held in 1944 and in the sixth meeting of the Standing Labour Committee held in 1945, the Government of India introduced a Bill in the Dominion Legislature on 2nd April, 1948 which was passed and became the Employees' State Insurance Act, 1948.

### **Social Security Legislations in India**

The Employees State Insurance Scheme of 1948, the Provident Fund Scheme for coal miners introduced in 1948 and the Employees Provident Fund Scheme implemented in six major industries in 1952 represent important steps towards social security legislations undertaken by the Government of India. The Employees State Insurance Scheme is the first of its kind in South East Asia.

The existing Social Security Legislations in India are, as follows:—

#### **1. Workmen's Compensation Legislation**

Workmen's Compensation Act of 1923 applies to workers earning Rs. 400/- per month and protects them against accidents involving incapacity, permanent disability and death.

#### **2. Maternity Benefit Legislation**

Maternity Benefit Acts enacted by different State Governments make statutory provisions for grant of maternity benefits to women workers. Mines workers are covered under the Mines Maternity Benefit Act of the Central Government.

The question of uniformity in legislation relating to maternity benefits was discussed in the thirteenth session of the Indian Labour Conference held in January, 1954. The Government of India drew up Model Minimum Standards for Maternity Benefit Legislation keeping in view the provisions of the I. L. O. Conventions and Recommendations and the existing State Maternity Benefit Acts and the Central Acts covering maternity benefits, viz., the Mines Maternity Benefit Act, 1941, the Employees' State Insurance Act, 1948 and the Plantations Labour Act, 1951 and forwarded the same to the State Governments for adoption, either by enactment of fresh legislation or by revision of the existing laws where necessary.

#### **3. Social Insurance Legislation**

The Employees' State Insurance Act, 1948 is a step towards building up of a social security code for workers in India. The Act applies, in the first instance, to perennial factories and covers all employees earning a monthly salary of Rs. 400/- but it can be extended to other classes of employees. The Act provides for five benefits, viz., sickness, maternity, disablement, medical and dependants' benefits. The Act is being brought into force by stages in different States and areas. It is expected that the Act will be implemented in the rest of the country within the shortest possible time. With the full implementation of the Act, all over India, the provisions of the workmen's compensation and maternity benefit laws will be gradually repealed.

Though the Act is at present limited in its scope and provides for five kinds of benefits, it is hoped that in course of time it will also cover all other benefits of social security including unemployment. The desirability of introducing an un-



employment insurance scheme in the place of the present provisions of lay-off and retrenchment compensation was discussed in the 14th session of the Indian Labour Conference held in Bombay in 1955 but no final decision was arrived at. The Government is considering an unemployment scheme which will complete the frame work of social insurance in India. The Working Group on Unemployment Insurance appointed by the Government has prepared the scheme integrating it in the existing State Insurance and Provident Fund Schemes under one unified central administration.

A modest beginning in the direction of unemployment insurance scheme has already been made with the amendment of the Industrial Disputes Act in 1953. The Amending Act lays down that the workers who have rendered a year's continuous service or more cannot be retrenched without giving one month's notice or wages in lieu thereof as well as compensation for retrenchment or lay-off, calculated at the rate of 15 days' average pay for every complete year of service or part thereof in excess of 6 months. The provisions of the Amending Act at present apply to the workers in major industries, plantations and working journalists.

#### **4. Provident Fund Legislation**

There was no law governing provident funds in private industries till 1929 when a new Chapter IX-A was inserted in the Indian Income-tax Act, 1922 by section 5 of the Indian Income Tax (Provident Fund Relief) Act, 1929 (XII of 1929). This new Chapter made provisions for the recognition of provident funds by the Income-tax Commissioners to enable the employers to claim deduction for income tax purposes. Certain conditions have been prescribed which have to be fulfilled by a provident fund before it is recognised by the Commissioner.

The Provident Fund Act, 1925 which came into force on 27th August, 1925 deals with provident funds relating to government servants, railway administration and local authorities. The Act lays down rules for protection of compulsory deposits and repayment of sums standing to the credit of a subscriber after his dismissal or resignation.

The position of provident funds in private industries in 1946 has been nicely summarised by the Labour Investigation Committee<sup>5</sup> in their Main Report published in 1946. The establishment of compulsory provident fund for industrial workers was discussed in the 10th meeting of the Standing Labour Committee and also in the 9th session of the Indian Labour Conference, both held in April, 1948. As a measure of social security for workers in coal mines, a scheme of compulsory contributory provident fund was instituted by enactment of the Coal Mines Provident Fund and Bonus Schemes Act in 1948.

#### **Coal Mines Provident Fund and Bonus Schemes Act, 1948**

The Coal Mines Bonus Scheme announced in July, 1948 applied to mines in West Bengal and Bihar with retrospective effect from May, 1947 and to those in Madhya Pradesh and Orissa from October, 1947. It was subsequently extended to Vindhya Pradesh, Hyderabad, Rajasthan and Assam. Bonus is given to persons getting up to Rs. 300/- a month as basic wages, and the employees covered under this Scheme are entitled to  $\frac{1}{3}$  of their basic earning as quarterly bonus.

Coal Mines Provident Fund Scheme was applicable to coal mines in West Bengal and Bihar with retrospective effect from May, 1947 and to mines in Madhya

<sup>5</sup> Labour Investigation Committee, Main Report, 1946, pages 360-361.

Pradesh and Orissa from October, 1947. It was subsequently extended to Assam, Vindya Pradesh, Hyderabad, etc.

The membership of the provident fund is compulsory for all employees earning bonus by conforming to a prescribed minimum attendance in a quarter and the employees contribute about  $\frac{1}{16}$ th of their total earnings with the employers contributing a like amount.

### **Workers' Provident Fund Bill, 1948**

A private member's Bill—Sri R. K. Sidhwa's Workers' Provident Fund Bill was introduced in the Constituent Assembly in February, 1948 for compulsory provident funds for all factory workers and certain section of transport workers earning Rs. 20/- or more per month. The Bill was circulated for eliciting public opinion and when it was taken for discussion on the 16th December, 1949 in the Constituent Assembly, on the assurance of the Labour Minister about bringing a comprehensive measure for introduction of provident fund for all categories of employees, the Bill was withdrawn.<sup>6</sup>

### **Employees' Provident Funds Act, 1952**

The success of the Coal Mines Provident Fund Scheme led to a demand for introduction of similar schemes for workers in other industries. The question of provident fund for industrial workers was discussed in the 12th meeting of the Standing Labour Committee held in November, 1950. In November, 1951, the President of India promulgated the Employees' Provident Funds Ordinance, 1951, as the Parliament was not in session. The Ordinance was subsequently replaced by the Employees' Provident Funds Act, 1952 which came into force on 1st November, 1952 in cement, cigarette, engineering (electrical as well as mechanical), iron and steel, paper and textile industries. It covers factories in these industries which employed 50 or more persons but does not include those with less than 3 years of existence and factories owned by the Government and local authorities. The administration of the Employees Provident Fund vests in a tripartite body known as the Central Board of Trustees consisting of representatives of Central and State Governments, employers and workers. The employer's contribution to the Fund has been fixed at 6½% of the basic wages and dearness allowance paid to an employee who will contribute a like amount which will be deducted from his wages. As many private firms have provident funds, there is a provision in the Act exempting those factories where the employees enjoy benefit in the nature of provident fund, pension or gratuity which are on the whole not less favourable than those provided under the Act. The Act was amended in 1953 to remove certain administrative difficulties.

### **Extension of the Employees' Provident Funds Act to Additional Industries**

The Planning Commission in the First Five Year Plan has recommended that the scheme should be extended to other industries after it has been established on a firm footing and more experience has been gained in its practical working.

The question of extending the provisions of the Employees' Provident Funds Act to certain additional well-established industries was considered at the fifth meeting of the Central Board of Trustees held on the 28th March, 1955 and also in the fourteenth session of the Indian Labour Conference held at Bombay on the 14th, 15th and 16th May, 1955. Summing up the discussions of the Labour Conference, the Central Labour Minister referred to the extension of the Provident Funds Act and felt that it would indirectly create a certain amount of resources

<sup>6</sup> Constituent Assembly of India (Legislative) Debates, 1949, Part II—Vol. VI, p. 671.

which would be utilised for the amelioration of the condition of workers and stressed the necessity of resolving the problem by talking across the table.

The Draft Outline of the Second Five Year Plan has also recommended to extend the Provident Fund Scheme to cover industries and commercial establishments not yet included in its scope. The rate of contribution is proposed to be enhanced from 6½% to 8½% and its financial aspects are under consideration.

## **WORKMEN'S COMPENSATION LEGISLATION**

### **First Social Insurance Legislation in India**

The Workmen's Compensation Act was the first and most important piece of social insurance legislation in India. The demand for compensation in the case of fatal or serious accidents was made by industrial workers since 1884. Formerly if a worker sustained injuries in course of his employment, his employer was not bound to compensate him except in so far as the accident took place due to the personal negligence of the employer. Under the Fatal Accidents Act of 1885, the employers could be sued for compensation in case of death arising from accidents.

### **Workmen's Compensation Act, 1923 (VIII of 1923)**

Proposals for Workmen's Compensation Act was first announced by the Government of India in 1921 and was accepted by the majority of Local Governments and by employers' and workers' associations. The Bill introduced in the Legislative Assembly on 13th September, 1922 mentioned that though the general principles of workmen's compensation commanded universal acceptance, India was alone amongst civilized countries without legislation embodying these principles. The Workmen's Compensation Act was passed on 5th March, 1923 (VIII of 1923) and came into force on 1st July, 1924. The Act followed the English model in its main principles and some of its provisions were borrowed from the English legislation, but its scope was much more limited.

### **Object of the Workmen's Compensation Act, 1923**

The object of the Act was to impose an obligation upon certain classes of employers to pay compensation to their manual workers for accidents arising out and in course of employment and resulting in death or total or partial disablement for a period exceeding 10 days. Compensation is also payable for some occupational diseases. Occupations covered by the Act are enumerated and amount of compensation to be paid are laid down. The amount of compensation payable is correlated to the level of worker's wages and the nature of injury sustained by him. The clerical staff as well as workers whose salaries exceed Rs. 300/- a month are excluded from its scope.

### **Administration of the Act**

The administration of the Act is entrusted to the State Governments who appoint Commissioners for Workmen's Compensation for settlement of the questions arising in the proceedings under the Act. Every employee is required to report all fatal accidents to the Commissioner who can require the employer to submit the case and to state whether he accepts the liability or not. If the employer accepts, he has to deposit the due sum to the Commissioner. Any contract concluded between the employer and the worker with regard to the amount of compensation will be declared null and void unless the same is registered with the Commissioner. The Central Government is authorised to include, by noti-

fication, any other classes of workers who are employed in hazardous occupations and also to add to the list of occupational diseases.

#### **Amendment of the Act in 1924 and 1925**

The Act was amended in 1924 by the Repealing and Amending Act of 1924 (VII of 1924) and in 1925 by the Repealing and Amending Act of 1925 (XXXVII of 1925).

#### **Workmen's Compensation (Amendment) Act 1926 (XXIX of 1926)**

The International Labour Conference adopted a Convention in 1925 concerning Workmen's Compensation (Occupational Diseases) and the Central Government, after ratification of the said Convention, amended the Workmen's Compensation Act in 1926 (XXIX of 1926) making necessary changes in the list of occupational diseases.

#### **Workmen's Compensation (Amendment) Act, 1929 (V of 1929)**

The Act was again amended in 1929 (V of 1929) for effecting certain changes of non-controversial character.

#### **Workmen's Compensation (Amendment) Act, 1933 (XV of 1933)**

Though amended and extended, the Act was found still inadequate. The Royal Commission on Labour recommended the extension of the scope of the Act, the addition of new occupational diseases, the increase of the scale of benefit and the administration of the Act by specially qualified Commissioners. On the basis of these recommendations, the Workmen's Compensation (Amendment) Act was passed in 1933 (XV of 1933) which came into force on 1st July, 1934. The important provisions of the Amending Act were (1) the scope was extended to include new industries and occupations and also new occupational diseases, (2) the scale of benefit was increased and the number of wage classes was raised from 14 to 17 and amount of compensation for death was raised from Rs. 500/- to Rs. 4,000/- and compensation for permanent total disablement increased to Rs. 5,000/-, (3) the waiting period for compensation was reduced from 10 to 7 days, (4) widows, daughters and sisters were included amongst dependants for compensation, (5) the Governor-General in Council was granted power to arrange for transfer of compensation to a foreign country in case of person residing abroad and also for administration of compensation awarded under the law of a foreign country for the benefit of a person residing in India. The Act thus revised, covers railways, tramways, factories, mines, docks, tea, coffee, rubber or cinchona plantations, electricity or gas generating stations, workers engaged in construction, demolition or repairs to certain buildings, roads, bridges or tunnels, operations relating to telegraph, telephone or overhead electric lines, cinematograph works and underground sewage workers. The Act granted wide powers to the Central Government for extension of the scope of the Act and for making rules for giving effect to the provisions of the Act. All these powers were transferred to the Provinces after 1st April, 1937.

#### **Workmen's Compensation (Amendment) Act, 1937 (VII of 1937)**

The Act was further amended in 1937 (VII of 1937) with a view to transfer payments relating to workmen's compensation when the dependants of workmen were in another country than the one in which compensation was deposited. This was necessitated in connection with the separation of Burma from India. The amendment permitted such transfer between Burma and India after separation.

**Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)**

The Act was again amended in 1938 (IX of 1938) to rectify certain ambiguities and defects found in course of administration of the Act. The scope was extended to cover liftmen and men employed in tapping palm trees and in hunting wild animals and some occupational diseases were also added to the Schedule. The period of limitation for preferring claim for compensation for accident was extended from 6 months to 1 year. The Act empowered a life insurance agent or a registered trade union officer duly authorised or any person with the permission of the Commissioner to appear before the Commissioner on behalf of the injured man or his beneficiary.

**Workmen's Compensation (Amendment) Act, 1939 (XIII of 1939)**

The Act was further amended in 1939 (XIII of 1939) clarifying the meaning of the term "monthly wages". The Amending Act provides that monthly wages means the amount of wages deemed to be payable for a month's service whether the payment is by the month or not.

**Workmen's Compensation (Amendment) Act, 1942 (I of 1942)**

The question of further amending the Act concerning several points were discussed at the third Labour Ministers' Conference held in January, 1942. The Act was amended in 1942 (I of 1942) prohibiting double payment of compensation under this Act as well as under War Pensions and Detention Allowances (Mercantile Marine, etc.), Scheme, 1939 or other schemes in respect of personal injuries to seamen. Failure to give notice or make a claim or commence proceedings within the time required by the Act shall not be a bar to the maintenance of proceedings under the Act in respect of the personal injury if an application was made for payment in respect of injury under the above Scheme and if the Provincial Government certifies that the said application was made in the reasonable belief and was rejected.

**Workmen's Compensation (Amendment) Act, 1946 (I of 1946)**

The seventh meeting of the Standing Labour Committee held on 25th August, 1945 decided to amend the definition of workmen in the Act in order that the concessions granted owing to the rise in the cost of living to higher categories of workmen may not operate to deprive them of the benefits under the Act to which they are entitled. The legislation was undertaken, because the British Government had also altered the Scheme and admitted many others in the category of persons entitled to compensation. The Workmen's Compensation (Amendment) Act, 1946 (I of 1946) enhanced the maximum monthly wage limit of workmen from Rs. 300/- to Rs. 400/- and also amended the Schedule IV prescribing maximum compensation payable at a higher scale from Rs. 4,000/- to Rs. 4,500/- in case of death and from Rs. 5,600/- to Rs. 6,300/- in case of permanent total disablement.

**Defects of the Workmen's Compensation Act, 1923**

Prof. B. P. Adarkar in his Report<sup>1</sup> on the Health Insurance for Industrial Workers has remarked that the Workmen's Compensation Act "has admittedly become out-of-date in its scope and operation" and that inspite of the tribute of the Royal Commission on Labour about smooth working and success of the Act, "the administration and operation of the Act have been a comparative failure." The Act has no doubt been partially revised on the recommendation of the Royal

<sup>1</sup> Report on the Health Insurance for Industrial Workers by Prof. B. P. Adarkar, 1946, pages 213-217.

Commission, "yet in its practical operation it has been far from satisfactory." Prof. Adarkar, therefore, has recommended that "workmen's compensation must be taken out of the hands of employers and subjected to compulsory insurance." In his opinion "the insurance scheme must be a part of a national programme of social insurance, under which the carrier of insurance is either the State or, preferably, a special tripartite organisation."

### **Proposal for Amendment of the Workmen's Compensation Act, 1923**

In the Five Year Labour Programme of the Central Government drawn up in September, 1946, there was a proposal for revision of the Workmen's Compensation Act.

The Government of India formulated certain proposals in 1953 for amendment of the Workmen's Compensation Act and circulated the same to different organisations for their suggestions. On the receipt of the comments, the Government again drew up new proposals for amendment and invited views and comments of the different interests concerned. The proposed amendment contemplates the following changes in the Act—(1) increase of wage-limit from Rs. 400/- to Rs. 500/-, (2) reducing the waiting period from 7 days to 2 days, (3) amending the amount of compensation at the rates varying from 40% to 50% of the wages, (4) providing for alternative employment to disabled workmen, (5) increasing the period of limitation in respect of notice and claim, (6) replacing Schedule I containing list of injuries resulting in permanent partial disablement by the Schedule in the National Insurance (Industrial Injuries) Benefit Regulations, 1948 and (7) suitably modifying Schedule III containing list of Occupational Diseases for which a Technical Committee with the Deputy Adviser of Factories (Medical) of the Government of India as Chairman is being appointed for advising on the changes and additions to be made in the Schedule.

### **Employees' State Insurance Act, 1948**

With the adoption of health insurance scheme under the Employees' State Insurance Act of 1948, a new chapter has been adopted in the history of social Security legislation in India. The Act is a more comprehensive measure and provides for medical assistance, sickness and maternity benefits, compensation for employment injury and dependants' benefits. The Act accepts the principle of insurance and thus an improvement on the Workmen's Compensation Act.

Any person covered by the Employees' State Insurance Act and entitled to receive compensation for employment injury, will not be entitled to receive any compensation from his employer under the Workmen's Compensation Act.

The Employees' State Insurance Act has at present limited scope and as a modest beginning has been introduced in limited areas. But the scheme under the Act is working smoothly and its benefits being steadily extended in the areas where it is enforced, it is gradually replacing the Workmen's Compensation Act and Maternity Benefit Acts.

## **WORKMEN'S COMPENSATION ACT, 1923 (VIII OF 1923)**

### **Statement of Objects and Reasons<sup>1</sup>**

The general principles of workmen's compensation command almost universal acceptance and India is now nearly alone amongst civilised countries which is being without legislation embodying these principles. For a number of years the more generous employers have been in the habit of giving compensation voluntarily, but this practice is by no means general. The growing complexity of industry in this country, with the increasing use of machinery and consequent danger to workmen, along with the comparative poverty of the workmen themselves, renders it advisable that they should be protected, as far as possible from hardship arising from accidents.

<sup>1</sup> Gazette of India, 1922, Part V, p. 313.

2. An additional advantage of legislation of this type is that by increasing the importance for the employer of adequate safety devices, it reduces the number of accidents to workmen in a manner that cannot be achieved by official inspection. Further, the encouragement given to employers to provide adequate medical treatment for their workmen should mitigate the effect of such accidents as do occur. The benefits so conferred on the workman added to the increased sense of security which he will enjoy, should render industrial life more attractive and this increases the available supply of labour. At the same time, a corresponding increase in the efficiency of average workman may be expected. A system of insurance would prevent the burden from pressing too heavily on any particular employer.

3. After a detailed examination of the question by the Government of India, Local Governments were addressed in July 1921, and provisional views of the Government of India were published for general information. The advisability of legislation has been accepted by the great majority of Local Governments and of employers' and workers' associations, and the Government of India believe the public opinion generally is in favour of legislation.

4. In June, 1922, a committee was convened to consider the question. This committee was composed, for the most part, of members of the Imperial Legislature. After considering the numerous replies and opinions received by the Government of India, the committee was unanimously in favour of legislation and drew up detailed recommendations regarding the lines which, in its opinion such legislation should follow. The Bill now presented follows these recommendations closely. A number of supplementary provisions have been added, where necessary, but practically no variations of importance have been made.

5. The Bill contains two distinct proposals. In Chapter II modifications are made in the ordinary civil law affecting liability of employers for damages in respect of injuries sustained by their workmen; these clauses will operate only in actions before the ordinary civil courts. The main part of the Bill makes provision for workmen's compensation and sets up special machinery to deal with claims falling under this category.

6. Both parts of the Bill, however, apply to the same classes of workmen. If the scope of the employers' liability clauses was made wider than the scope of the workmen's compensation provisions there would be considerable danger of a great increase in litigation. The classes included are those whose inclusion was recommended by the committee, and are specified in Schedule II. Two criteria have been followed in the determination of the classes to be included:—

- (1) that the Bill should be confined to industries which are more or less organised;
- (2) that only workmen whose occupation is hazardous should be included.

7. The general principle is that compensation should ordinarily be given to workmen who sustained personal injuries by accidents arising out of and in the course of their employment. Compensation will also be given in certain limited circumstances for disease. The actual rates of compensation payable are based on the unanimous recommendation of the committee. They are in every case subject to fixed maxima, in accordance with the committee's recommendations. It should be remembered, however, that the more highly paid workmen will be enabled, in cases to which the employers' liability clauses will apply to obtain damages on a scale considerably in excess of the maximum fixed for workmen's compensation.

8. A consistent endeavour has been made to give as little opportunity for dispute as possible. Throughout the Bill, in the definitions adopted, the scales selected and the exceptions permitted, the great aim has been precision, in order that, in as few cases as possible should the validity of a claim for compensation or the amount of that claim be open to doubt. At the same time, on the unanimous recommendation of the committee, provision has been made for Special Tribunals to deal cheaply and expeditiously with any disputes that may arise, and generally to assist the parties in a manner which is not possible for the ordinary Civil Courts.

## 1. AMENDING ACT OF 1929 (V OF 1929)

### Statement of Objects and Reasons<sup>2</sup>

The Workmen's Compensation Act, 1923, came into force on the 1st July, 1924. Since then a number of amendments have suggested themselves or have been proposed by Commissioners for Workmen's Compensation and Local Governments. Some of the latter

<sup>2</sup> Gazette of India, 1928, Part V, page 153.

proposals involve the modification of the principles underlying the present Act or of its more important features. So far as these are concerned, the Government of India consider it advisable to consult Local Governments and the public generally before forming conclusions. For the present it is proposed to limit the revision of the Act to the amendment of those sections or parts of sections which are admittedly defective and to the introduction of changes which are likely to raise no important controversial points and which will be generally recognised as improvements.

## 2. AMENDING ACT OF 1933 (XV OF 1933)

### Statement of Objects and Reasons<sup>3</sup>

The Workmen's Compensation Act, 1923, was experimental in character, and since its coming into force on the 1st July, 1924, a number of modifications of its provisions have been suggested by various authorities and interests. A few amendments, which were designed to remedy admitted defects or to embody improvements of a non-controversial character, were effected by the Workmen's Compensation (Amendment) Act, 1929. Those proposals which involved the modification of the principles underlying the Act or its more important features were referred by the Government of India to Local Governments for opinions in a circular letter in 1928. Copies of this circular letter and of the replies received thereto were supplied to the Royal Commission on Labour who have after reviewing the question in the light of further evidence supplied to them, made a number of recommendations on the subject in Chapter XVI of their Report. This Bill follows these recommendations closely; some minor additional provisions have been incorporated, but few variations from the Commission's proposals have been made.

## 3. AMENDING ACT OF 1937 (VII OF 1937)

### Statement of Objects and Reasons<sup>4</sup>

Section 35 of the Workmen's Compensation Act, 1923 (VIII of 1923), enables rules to be made for the transfer of sums paid to Commissioners in India as compensation for the benefit of persons abroad or paid to authorities abroad as compensation for persons in India. But it does not provide for the transfer of distribution proceedings when the employer does not object and the dependants are in another country than the one in which the compensation is deposited. The amendment is designed to make this possible and is required in the first instance, to provide for transfers between Burma and India after separation. At present, distribution proceedings can be transferred from Burma to provinces in India and vice versa under Section 21(2) of the Act; but this will cease to be applicable when Burma becomes a separate country.

## 4. AMENDING ACT OF 1938 (IX OF 1938)

### Statement of Objects and Reasons<sup>5</sup>

A number of ambiguities and minor defects have come to light in recent years in the course of administration of the Workmen's Compensation Act. A Bill to deal with these was prepared in 1936 and Provincial Governments were requested to give it wide publicity and to invite opinions on it. The views received by the Government of India were generally favourable but certain modifications have been made to meet criticisms received and one of the proposals originally made has been omitted as it formed the subject of a separate Act which was passed during the last Delhi Session of the Indian Legislature. The notes on clauses explain the purpose of the present proposals in detail.

## 5. AMENDING ACT OF 1939 (XIII OF 1939)

### Statement of Objects and Reasons<sup>6</sup>

Under the Personal Injuries (Emergency Provisions) Act, 1939, amongst other people, seamen who sustain injuries in certain circumstances are entitled to compensation from the State. Under the Workmen's Compensation Act, 1923 (VIII of 1923) seamen sustaining similar injuries will in certain circumstances be entitled to claim compensation from their employers. To prevent the possibility of this double claim for the same injuries it is proposed to amend the Workmen's Compensation Act 1923, taking away from seamen

<sup>3</sup> Gazette of India, 1932, Part V, page 61.

<sup>4</sup> Gazette of India, 1937, Part V, page 98.

<sup>5</sup> Gazette of India, 1937, Part V, page 241.

<sup>6</sup> Gazette of India, 1939, Part V, page 258.



any right to claim compensation under that Act in cases where they are entitled to compensation under Personal Injuries (Emergency Provisions) Act, 1939. A similar provision is contained in the latter Act as regards persons to whom Workmen's Compensation Acts of United Kingdom apply. Provisions are also made in the amending Bill saving limitations under the 1923 Act in cases where a bonafide claim under the 1939 Act is made and rejected.

## 6. AMENDING ACT OF 1942 (I OF 1942)

### Statement of Objects and Reasons<sup>7</sup>

In 1939 the Workmen's Compensation Act, 1923 (VIII of 1923) was amended with a view to relieving shipowners of their liability to pay compensation to seamen under the Act in respect of war injuries for which a payment could be obtained under any scheme of compensation made by the competent authorities in the United Kingdom. Such schemes made in the United Kingdom provide for payment of compensation to seamen serving on ships registered under the Merchant Shipping Act, 1894. The Central Government has now, in pursuance of a Resolution adopted by the Indian Legislature, made scheme called the War Prisoners and Detention Allowances (Indian Seamen) Scheme, 1942, providing for payment of compensation in respect of war injuries sustained by seamen serving on ships registered under the Bombay Coasting Vessels Act, 1838, or under the Indian Registration of Ships Act, 1841. It is, therefore necessary further to amend the Workmen's Compensation Act so as to take away from seamen any right to claim compensation under that Act in cases where they are entitled to compensation under the Scheme made by the Central Government. The present Bill is intended to secure this object. Opportunity has also been taken to insert the specific names of the United Kingdom schemes and to carry out certain formal amendments rendered desirable by the actual provisions of those schemes.

## WORKMEN'S COMPENSATION ACT, 1923 (VIII OF 1923)

### Arrangement of Sections

#### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II—WORKMEN'S COMPENSATION

3. Employers' liability for compensation.
4. Amount of compensation.
5. Method of calculating wages.
6. Review.
7. Commutation of half-monthly payments.
8. Distribution of compensation.
9. Compensation not to be assigned, attached or charged.
10. Notice and claim.
- 10A. Power to require from employers statements regarding fatal accidents.
- 10B. Reports of fatal accidents.
11. Medical examination.
12. Contracting.
13. Remedies of employer against stranger.
14. Insolvency of employer.
15. Special provisions relating to masters and seamen.
16. Returns as to compensation.
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18. Proof of age.
- 18A. Penalties.

#### CHAPTER III—COMMISSIONERS

19. Reference to Commissioners.
20. Appointment of Commissioners.
21. Venue of proceedings and transfer.

<sup>7</sup> Gazette of India, 1942, Part V, page 2.

22. Form of application.
- 22A. Power of Commissioner to require further deposit in cases of fatal accident.
23. Powers and procedure of Commissioners.
24. Appearance of parties.
25. Method of recording evidence.
26. Costs.
27. Power to submit cases.
28. Registration of agreements.
29. Effect of failure to register agreement.
30. Appeals.
- 30-A. Withholding of certain payments pending decision of appeal.
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## CHAPTER IV—RULES

32. Power of the State Government to make rules.
33. Repealed.
34. Publication of rules.
35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

SCHEDULE I.—List of injuries deemed to result in permanent partial disablement.

SCHEDULE II.—List of persons who, subject to the provisions of section 2(1)-(n), are included in the definition of workmen.

SCHEDULE III.—List of Occupational Diseases.

SCHEDULE IV.—Compensation payable in certain cases.

WORKMEN'S COMPENSATION ACT, 1923 (VIII OF 1923)<sup>1</sup>

*An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.*

[5th March, 1923.]

Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident: It is hereby enacted as follows:—

## CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Workmen's Compensation Act, 1923.

<sup>2</sup>[(2) It extends to the whole of India <sup>3</sup>[except the State of Jammu and Kashmir]].

(3) It shall come into force on the first day of July, 1924.

2. **Definitions.**—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "adult" and "minor" means respectively a person who is not and a person who is under the age of fifteen years;

(b) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1922, Pt. V, p. 313. see also p. 955 ante and for Report of Joint Committee, see *ibid.*, Pt. V, p. 37.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has also been declared in force in the districts of Khondmals by s. 3 and Sch. of the Khondmals Laws Regulation, 1936 (IV of 1936), and in the district of Angul by s. 3 and Sch. of the Angul Laws Regulation, 1936 (V of 1936).

<sup>2</sup> Subs. by the A. O. 1950 for the original sub-section.

<sup>3</sup> Subs. by Act 3 of 1951 for "except Part B States".

(c) "compensation" means compensation as provided for by this Act;

[(d) "dependant" means any of the following relatives of a deceased workman, namely:

(i) a <sup>6</sup>[widow], minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(ii) if wholly or in part dependent on the earnings of the workman at the time of his death, a <sup>6</sup>[widower], a parent other than a widowed mother, a minor illegitimate son, and unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, <sup>7</sup>[a minor child of a deceased daughter where no parent of the child is alive]. or, where no parent of the workman is alive, a paternal grandparent;]

(e) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;

(f) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

(g) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time; provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858 (21 & 22 Vict. c. 90), or any Act amending the same, or under any <sup>8</sup>[Central Act, Provincial Act or an Act of the Legislature of a <sup>9</sup>[Part A States or Part B States] providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the <sup>10</sup>[State Government], by notification in <sup>11</sup>[Official Gazette], to be a qualified medical practitioner for the purposes of this Act;

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<sup>4</sup> Subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 2 for the original clause.

<sup>5</sup> Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 2 for "wife".

<sup>6</sup> Subs. by s. 2 of Act 9 of 1938 for "husband".

<sup>7</sup> Subs. by s. 2 *ibid.*

<sup>8</sup> Subs. by the A. O. 1950 for the words "Act of Central Legislature or of any Legislature in a Province of India".

<sup>9</sup> Subs. by Act 3 of 1951 for "Part A State".

<sup>10</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>11</sup> Subs. by the A. O. 1937 for "local official Gazette".

<sup>12</sup> Cl. (j) rep. by s. 2 of Act 15 of 1933.

(k) "seaman" means any person forming part of the crew of any <sup>13</sup> \* \* \* ship, but does not include the master of <sup>14</sup>[the] ship;

(l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I, where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent;

(m) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890 (IX of 1890), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed <sup>15</sup> \* \* \* on monthly wages not exceeding <sup>16</sup>[four] hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of <sup>17</sup>[the Armed Forces of the Union] <sup>18</sup>\*\*\*\*; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department <sup>19</sup>[acting on behalf of the <sup>20</sup>[Government]] shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

<sup>21</sup>[(3) The <sup>22</sup>[State Government], after giving, by notification in the <sup>23</sup>[Official Gazette], not less than three months' notice of <sup>24</sup>[its] intention so to do, may, by a like notification, and to Schedule II any class of persons employed in any occupation which <sup>25</sup>[it], is satisfied is a hazardous occupation, and the provisions

<sup>13</sup> The word "registered" rep. by Act 15 of 1933, s. 2.

<sup>14</sup> Subs. by s. 2, *ibid.*, for "any such".

<sup>15</sup> The words "either by way of manual labour or" rep. by s. 2, *ibid.*

<sup>16</sup> Subs. by Act 1 of 1946, s. 2 for "three".

<sup>17</sup> Subs. by the A. O. 1950 for "His Majesty's naval, military or air forces".

<sup>18</sup> The words "or of the Royal Indian Marine Service" rep. by the A. O. 1937.

<sup>19</sup> Subs. *ibid.*, for "of the Government".

<sup>20</sup> Subs. by the A. O. 1950 for "Crown".

<sup>21</sup> Subs. by s. 2 of Act 15 of 1933 for the original sub-section.

<sup>22</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>23</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>24</sup> Subs. *ibid.*, for "his".

<sup>25</sup> Subs. *ibid.*, for "he".

of this Act shall thereupon apply <sup>26</sup>[within the <sup>27</sup>[State]] to such classes of persons:

Provided that in making such addition the <sup>28</sup>[State Government] may direct that the provisions of this Act shall apply to such classes of person in respect of specified injuries only.]

#### CHAPTER II—WORKMEN'S COMPENSATION

**3. Employer's liability for compensation.**—(1) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding <sup>29</sup>[seven] days;

(b) in respect of any <sup>30</sup>[injury, not resulting in death, caused by] an accident which is directly attributable to—

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workman<sup>31</sup>\*

(2) <sup>32</sup>[If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment], or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of less than six months in any employment specified in <sup>33</sup>[Part B of] Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

*Explanation.*—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer <sup>34</sup>[in the same kind of employment].

(3) The <sup>35</sup>[State Government] after giving, by notification in the <sup>36</sup>[Official Gazette] not less than three months' notice of <sup>36</sup>[its] intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so

<sup>26</sup> Ins. *ibid.*

<sup>27</sup> Subs. by the A. O. 1950 for "Province".

<sup>28</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>29</sup> Subs. by s. 3 of Act 15 of 1933 for "ten".

<sup>30</sup> Subs. by s. 3, *ibid.*, for "injury to a workman resulting from".

<sup>31</sup> The word "or" and cl. (c) rep. by s. 2 of Act 5 of 1929.

<sup>32</sup> Subs. by s. 3 of Act 9 of 1938.

<sup>33</sup> Ins. by Act 9 of 1938, s. 3.

<sup>34</sup> Ins. by s. 3 of Act 9 of 1938.

<sup>35</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>36</sup> Subs. *ibid.* for "his".

added the diseases which <sup>37</sup>[within the <sup>38</sup>[State] shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2), shall thereupon apply <sup>37</sup>[within the <sup>38</sup>[State] as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is <sup>39</sup>\*\*\* directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

**4. Amount of compensation.**—<sup>40</sup>[(1) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(a) Where death results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(ii) in the case of a minor—two hundred rupees;

(b) Where permanent total disablement results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees;

(c) Where permanent partial disablement results from the injury—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

*Explanation.*—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

(d) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of

<sup>37</sup> Ins. by the A. O. 1937.

<sup>38</sup> Subs. by the A. O. 1950 for "Province".

<sup>39</sup> The words "solely and" rep. by Act 15 of 1933, s. 3.

<sup>40</sup> Subs. by s. 4 *ibid.* for the original sub-section.

a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and
- (ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be: and

(b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.]

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

**5. Method of calculating wages.**—<sup>41</sup>\* <sup>42</sup>[In this Act and for the purposes thereof the expression “monthly wages” means the amount of wages deemed to be payable for a month’s service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated] as follows, namely:—

(a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period:

<sup>43</sup>[(b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be “\* \* \* the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;]

<sup>44</sup>[(c)] In other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

\* \* \* \* \*

**Explanation.**—A period of service shall, for the purposes of <sup>47</sup>[this section] be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

<sup>41</sup> The brackets and figure “(1)” rep. by s. 4 of Act 9 of 1938.

<sup>42</sup> Subs. by Act 13 of 1939, s. 2, for “For the purposes of this Act the monthly wages of a workman shall be calculated”, with effect from 30th June, 1934.

<sup>43</sup> Ins. by s. 5 of Act 15 of 1933.

<sup>44</sup> The words “deemed to be” rep. by s. 2 of Act 13 of 1939.

<sup>45</sup> Original cl. (b) re-lettered (c) by s. 5 of Act 15 of 1933.

<sup>46</sup> The proviso rep. *ibid.*

<sup>47</sup> The words “this sub-section” subs. by s. 3 of Act 5 of 1929 and the word “section” subs. for “sub-section” by s. 4 of Act 9 of 1938.

6. **Review.**—(1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. **Commutation of half-monthly payments.**—Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

8. **Distribution of compensation.**—<sup>49</sup>[(1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

<sup>50</sup>[Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.]

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.]

(4) On the deposit of any money under sub-section (1) <sup>51</sup>[as compensation in respect of a deceased workman] the Commissioner <sup>52</sup>[shall deduct] therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding <sup>53</sup>[twenty-five rupees] and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

<sup>48</sup> Sub-section (2) rep. by Act 15 of 1933, s. 5.

<sup>49</sup> Subs. by s. 4 of Act 5 of 1929 for the original sub-section.

<sup>50</sup> Subs. by Act 15 of 1933 for the original proviso, s. 6.

<sup>51</sup> Ins. by s. 4 of Act 5 of 1929.

<sup>52</sup> Subs. by Act 15 of 1933, s. 6 for the words "may deduct".

<sup>53</sup> Subs. by s. 6 of Act 15 of 1933 for the original words.



<sup>54</sup>[(5)] Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (4), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(6) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(7) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the workman.]

<sup>55</sup>[(8)] Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

<sup>56</sup>[(9) Where the Commissioner varies any order under sub-section (8) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31.]

**9. Compensation not to be assigned, attached or charged.**—Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

**10. Notice and claim.**—(1) <sup>57</sup>[No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death]:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the work-

<sup>54</sup> Sub-sections (5) to (7) subs. for the original sub-section (5) by Act 5 of 1929, s. 4.

<sup>55</sup> The original sub-section (6) was re-numbered (8) *ibid.*

<sup>56</sup> Ins. by s. 4 of Act 5 of 1929.

<sup>57</sup> Subs. by s. 5 of Act 9 of 1938 for the original words.

man was continuously absent from work in consequence of the disablement caused by the disease:

<sup>58</sup>[Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the <sup>59</sup>[entertainment of a claim]—

(a) if the claim is <sup>60</sup>[preferred] in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(b) if the employer <sup>61</sup>[or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed] had knowledge of the accident from any other source at or about the time when it occurred]:

Provided, further, that the Commissioner may <sup>62</sup>[entertain] and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been <sup>63</sup>[preferred], in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or <sup>64</sup>[prefer] the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon <sup>65</sup>[any one of] several employers, or upon any person <sup>66</sup>\* responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

<sup>67</sup>[(3) The <sup>68</sup>[State Government] may require that any prescribed class of employers shall maintain at their premises at which workmen are employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the premises and to any person acting *bona fide* on his behalf.

(4) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served or, where a notice-book is maintained, by entry in the notice-book.]

**<sup>69</sup>[10A. Power to require from employer statements regarding fatal accidents.—(1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death**

<sup>58</sup> Ins. by s. 7 of Act 15 of 1933.

<sup>59</sup> Subs. by s. 5 of Act 9 of 1938 for the words "maintenance of proceedings".

<sup>60</sup> Subs. *ibid.* for the word "made".

<sup>61</sup> Ins. *ibid.*

<sup>62</sup> Subs. *ibid.* for the word "admit".

<sup>63</sup> Subs. *ibid.* for the word "instituted".

<sup>64</sup> Subs. by s. 5 of Act 9 of 1938, for "institute".

<sup>65</sup> Subs. by s. 2 and first sch. of Act 7 of 1924.

<sup>66</sup> The word "directly" rep. by s. 5 of Act 9 of 1938.

<sup>67</sup> Sub-sections (3) and (4) substituted by s. 7 of Act 15 of 1933 for original sub-section (3).

<sup>68</sup> Subs. by the A. O. 1950, for "Provincial Government".

<sup>69</sup> Sections 10-A and 10-B inserted by s. 8 of Act 15 of 1933.

of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

**10B. Reports of fatal accidents.**—(1) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the <sup>70</sup>[State Government] has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(2) The <sup>70</sup>[State Government] may, by notification in the <sup>71</sup>[Official Gazette], extend the provisions of sub-section (1) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.]

**11. Medical examination**—(1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspen-

<sup>70</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>71</sup> Subs. by the A. O. 1937 for "local official Gazette".

sion, and, if the period of suspension commences before the expiry of the waiting period referred to in clause (d) of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, <sup>72</sup>[if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable] in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, <sup>73</sup>[whose instructions he had followed], and compensation, if any, shall be payable accordingly.

**12. Contracting.**—(1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor. <sup>74</sup>[or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

**13. Remedies of employer against stranger.**—Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

**14. Insolvency of employer.**—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any work-

<sup>72</sup> Subs. by s. 6 of Act 9 of 1938.

<sup>73</sup> Ins. *ibid.*

<sup>74</sup> Ins. by s. 9 of Act 15 of 1933.

man, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

**15. Special provisions relating to masters and seamen.**—This Act shall apply in the case of workmen who are masters of <sup>75</sup>\* ships or seamen subject to the following modifications, namely:—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of

<sup>75</sup> The word "registered" rep. by s. 10 of Act 15 of 1933.

the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind in any part of <sup>76</sup>[India or] His Majesty's dominions or <sup>77</sup>[in any other foreign country], any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the <sup>78</sup>[Central Government] or any <sup>79</sup>[State Government] shall, in any proceedings for enforcing the claim, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused; and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

<sup>80</sup>\* \* \* \* \*

<sup>81</sup>[(4)] No <sup>82</sup>[half-monthly payment] shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being <sup>83</sup>\* \* \* relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

<sup>84</sup>[(5)] No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, (2 & 3 Geo. 6, c. 83), or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the Central Government.

(6) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if—

(a) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and

<sup>76</sup> Ins. by the A. O. 1950.

<sup>77</sup> Subs. *ibid.*, for "in a foreign country".

<sup>78</sup> Subs. by the A. O. 1937 for "Governor General in Council."

<sup>79</sup> Subs. by the A. O. 1950 for "Provincial Government."

<sup>80</sup> Original sub-section (4) rep. by s. 7 of Act 9 of 1938.

<sup>81</sup> Original sub-section (5) renumbered (4), *ibid.*

<sup>82</sup> Subs. by s. 2 and first schedule of Act 7 of 1924.

<sup>83</sup> Omitted by Act 3 of 1951.

<sup>84</sup> Subs. by s. 2 of Act 1 of 1942.

(b) the <sup>85</sup>[State Government] certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and

(c) the proceedings under this Act are commenced within one month from the date on which the said certificate of the <sup>85</sup>[State Government] was furnished to the person commencing the proceedings.]

**16. Returns as to compensation.**—The <sup>85</sup>[State Government] may by notification in the <sup>86</sup>[Official Gazette], direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the <sup>85</sup>[State Government] may direct.

**17. Contracting out.**—Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

**18. Proof of age.**—Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, <sup>87</sup>[a valid certificate granted in respect of such person under section 12 or section 52 of the Factories Act, 1934 (XXV of 1934)], before the occurrence of the injury shall be conclusive proof of the age of such person.

<sup>88</sup>[**18A. Penalties.**—(1) Whoever—

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(c) fails to send a report which he is required to send under section 10B, or

(d) fails to make a return which he is required to make under section 16, shall be punishable with fine which may extend to one hundred rupees.

(2) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

### CHAPTER III—COMMISSIONERS

**19. Reference to Commissioners.**—(1) If any question arises in any proceedings under this Act to be liability of any person to pay compensation (including any question as to whether a person injured is or not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by <sup>89</sup>[a Commission].

<sup>85</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>86</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>87</sup> Subs. by s. 8 of Act 9 of 1938.

<sup>88</sup> Ins. by s. 11 of Act 15 of 1933.

<sup>89</sup> Subs. by s. 12 of Act 15 of 1933, for "the Commissioner".

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

**20. Appointment of Commissioners.**—(1) The <sup>90</sup>[State Government] may, by notification in the <sup>91</sup>[Official Gazette], appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

<sup>92</sup>[(2)] Where more than one Commissioner has been appointed for any local area, the <sup>90</sup>[State Government] may, by general or special order, regulate the distribution of business between them.]

<sup>93</sup>[(3)] Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

<sup>94</sup>[(4)] Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860).

**21. Venue of proceedings and transfer.**—(1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before <sup>94</sup>[a Commissioner] for the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a <sup>95</sup>\* ship or a seaman, any such matter may be done by or before <sup>94</sup>[a Commissioner] for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied <sup>96</sup>[that any matter arising out of any proceedings pending before him] can be more conveniently dealt with by any other Commissioner, whether in the same <sup>97</sup>[State] or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

<sup>98</sup>[Provided that the Commissioner shall not, where, any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard:]

Provided <sup>99</sup>[further], that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same <sup>97</sup>[State] save with the previous sanction of the <sup>90</sup>[State Government] or to a Commissioner in another <sup>97</sup>[State] save with the previous sanction of <sup>100</sup>[the

<sup>90</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>91</sup> Subs. by the A. O. 1937 for "local official Gazette".

<sup>92</sup> New sub-section (2) inserted by s. 13 of Act 15 of 1933.

<sup>93</sup> Original sub-section (2) and (3) renumbered (3) and (4), *ibid.*

<sup>94</sup> Subs. by s. 14, *ibid.* for "the Commissioner".

<sup>95</sup> The word "registered" rep. *ibid.*

<sup>96</sup> Subs. by s. 9 of Act 9 of 1938.

<sup>97</sup> Subs. by the A. O. 1950 for "Province".

<sup>98</sup> Ins. by s. 9 of Act 9 of 1938.

<sup>99</sup> Ins. *ibid.*

<sup>100</sup> Subs. by the A. O. 1937 for "Governor General in Council",



<sup>101</sup>[State Government] of that <sup>102</sup>[State], unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire therein and, if the matter was transferred for report, return his report thereon, or if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

<sup>103</sup>(5) The <sup>101</sup>[State Government] may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.]

**22. Form of application.**—(1) No application for the settlement of any matter by a Commissioner, <sup>104</sup>[other than an application by a dependant or dependants for compensation,] shall be made unless and until some question had arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) <sup>105</sup>[An application to a Commissioner] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

(a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(c) the names and addresses of the parties; and

(d) <sup>106</sup>[except in the case of an application by dependants for compensation] a concise statement of the matters on which agreement has and <sup>107</sup>[of] those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

<sup>108</sup>[**22A. Power of Commissioner to require further deposit in cases of fatal accident.**—(1) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(2) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.]

<sup>101</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>102</sup> Subs. by the A. O. 1950 for "Province".

<sup>103</sup> Ins. by s. 14 by Act 15 of 1933.

<sup>104</sup> Ins. by s. 15 of Act 15 of 1933.

<sup>105</sup> Subs. *ibid.*

<sup>106</sup> Ins. by s. 15 of Act 15 of 1933.

<sup>107</sup> Subs. by s. 2 and first schedule of Act 37 of 1925.

<sup>108</sup> Ins. by s. 16 of Act 15 of 1933.

**23. Powers and procedure of Commissioners.**—The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, <sup>109</sup>[and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).]

**24. Appearance of parties.**—Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or <sup>110</sup>[by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised.]

**25. Method of recording evidence.**—The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

**26. Costs.**—All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

**27. Power to submit cases.**—A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

**28. Registration of agreements.**—(1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable <sup>111</sup>[to a woman or a person under a legal disability] <sup>112</sup>\* \* \* a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

<sup>113</sup> \* \* \* \* \*

(c) the Commissioner may at any time rectify the register;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable <sup>114</sup>[to a woman or a person under a legal disability] <sup>115</sup>\*\*\*\*\* ought not to be registered

<sup>109</sup> Added by s. 5 of Act 5 of 1929.

<sup>110</sup> Subs. by s. 10 of Act 9 of 1938.

<sup>111</sup> Subs. by s. 6 of Act 5 of 1929.

<sup>112</sup> The words rep. by s. 3 and second schedule of Act 7 of 1934.

<sup>113</sup> Clause (b) repealed by s. 6 of Act 5 of 1929.

<sup>114</sup> Subs. *ibid.* for "to a person under any legal disability."

<sup>115</sup> Rep. by s. 3 and second schedule of Act 7 of 1934.

by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement <sup>116</sup>[and may make such order] including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872 (IX of 1872), or in any other law for the time being in force.

**29. Effect of failure to register agreement.**—Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation, whether under the agreement or otherwise.

**30. Appeals.**—(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

(b) An order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

<sup>117</sup>[Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]

(2) The period of limitation for an appeal under this section shall be sixty days:

(3) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall be applicable to appeals under this section.

**118[30A. Withholding of certain payments pending decision of appeal.**—Where an employer makes an appeal under clause (a) of sub-section (1) of sec-

<sup>116</sup> Subs. by s. 2 and first schedule *ibid*.

<sup>117</sup> Ins. by s. 17 of Act 15 of 1933.

<sup>118</sup> Ins. by s. 18, *ibid*.

tion 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.]

**31. Recovery.**—The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

#### CHAPTER IV—RULES

**32. Power of the State Government to make rules.**—(1) The <sup>119</sup>[State Government] may make rules<sup>120</sup> to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 11;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on application for review of the same;<sup>121\*</sup>

121 \*

<sup>122</sup>[(i) for regulating the scales of costs which may be allowed in proceedings under this Act;

- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them;
- (l) for prescribing the classes of employers who shall maintain notice-books under sub-section (3) of section 10, and the form of such notice-books;

<sup>119</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>120</sup> Workmen's Compensation Rules, 1924, published under Department of Industries and Labour Notification No. L-1182 dated the 26th June, 1924.

<sup>121</sup> The word "and" and the original clause (i) rep. by the A. O. 1937.

<sup>122</sup> Clauses (a) to (f) of section 33 after being re-lettered as (i) to (n) respectively were added to section 32 and the rest of section 33 was repealed, by A. O. 1937.

(m) for prescribing the form of statement to be submitted by employers under section 10A; and;

(n) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner.]

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**34. Publication of rules.**—(1) The power to make rules conferred by <sup>123</sup>[section 32] shall be subject to the condition of the rules being made after previous publication.

(2) the date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of rules proposed to be made under section 32 <sup>124</sup>\* \* \* will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in <sup>125</sup>\* \* \* \* the <sup>126</sup>[Official Gazette], <sup>127</sup>\* \* \* \* and, on such publication, shall have effect as if enacted in this Act.

<sup>128</sup>[**35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.**—<sup>129</sup>[(1) The <sup>130</sup>[Central Government] may, by notification in the <sup>131</sup>[Official Gazette], make rules for the transfer<sup>132</sup>\* \* \* to any part of His Majesty's Dominions or to any other country of money <sup>133</sup>[deposited with] a Commissioner under this Act <sup>134</sup>[which has been awarded to, or may be due to,] any person residing or about to reside in <sup>135</sup>[such part or country] and for the receipt, <sup>136</sup>[distribution] and administration in <sup>137</sup>[any State] of any money <sup>138</sup>[deposited] under the law relating to workmen's compensation <sup>139</sup>\* \* \* \* or in any part of His Majesty's Dominions or in any other country, <sup>140</sup>[which has been awarded to, or may be due to,] any person residing or about to reside in <sup>137</sup>[any State].]

<sup>141</sup>[Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (4) and (5) of section 8.

(2) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.]

<sup>123</sup> Subs. for "section 32 and 33", *ibid.*

<sup>124</sup> The words "or section 33" repealed, *ibid.*

<sup>125</sup> The words "Gazette of India" repealed, *ibid.*

<sup>126</sup> Subs. *ibid.* for "local official Gazette".

<sup>127</sup> The words "as the case may be" repealed, *ibid.*

<sup>128</sup> Ins. by s. 15 of Act 15 of 1933.

<sup>129</sup> Section 35 re-numbered as sub-section (1) of that section by s. 2 of Act 7 of 1937.

<sup>130</sup> Subs. by the A. O. 1937 for "Governor General in Council".

<sup>131</sup> Subs. *ibid.* for "Gazette of India".

<sup>132</sup> The words "to any Part B State or" rep. by Act 3 of 1951.

<sup>133</sup> Subs. by s. 2 of Act 7 of 1937 for "paid up".

<sup>134</sup> Subs. *ibid.* for "for the benefit of".

<sup>135</sup> Subs. by Act 3 of 1951 for "such State, part or country".

<sup>136</sup> Ins. by s. 2 of Act 7 of 1937.

<sup>137</sup> Subs. by Act 3 of 1951 for "a Part A State or Part C State".

<sup>138</sup> Subs. by s. 2 of Act 7 of 1937 for "awarded".

<sup>139</sup> Omitted by Act 3 of 1951.

<sup>140</sup> Subs. by s. 2 of Act 7 of 1937 for "and applicable for the benefit of".

<sup>141</sup> Proviso and sub-section (2) added, *ibid.*

## SCHEDULE I.—[See sections 2 (1) and 4.]

*List of injuries deemed to result in permanent partial disablement.*

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow ... ..	70
Loss of left arm above or at the elbow ... ..	60
Loss of right arm below the elbow ... ..	60
Loss of leg at or above the knee ... ..	60
Loss of left arm below the elbow ... ..	50
Loss of leg below the knee ... ..	50
Permanent total loss of hearing ... ..	50
Loss of one eye ... ..	30
Loss of thumb ... ..	25
Loss of all toes of one foot ... ..	20
Loss of one phalanx of thumb .. ...	10
Loss of index finger ... ..	10
Loss of great toe ... ..	10
Loss of any finger other than index finger ... ..	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

## SCHEDULE II.—[See section 2 (1) (n).]

*List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.*

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

<sup>142</sup>[(i) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of <sup>143</sup>[a lift or a vehicle propelled by steam or other mechanical power or by electricity]; or

(ii) employed otherwise than in a clerical capacity in any premises wherein, or within the precincts whereof, on any one day of the proceeding twelve months, ten or more persons have been employed in any manufacturing process, as defined in <sup>144</sup>[clause (g) of section 2 of the Factories Act, 1934 (XXV of 1934)], or in any kind of work, whatso-

<sup>142</sup> Subs. by s. 21 of Act 15 of 1933 for the original clauses.

<sup>143</sup> Subs. by s. 11 of Act 9 of 1938 for "mechanically propelled vehicles".

<sup>144</sup> Subs. *ibid* for "clause (4) of section 2 of the Indian Factories Act, 1911."

ever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or

- (iii) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or
- (iv) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or
- (v) employed, in any mine as defined in clause (f) of section 3 of the Indian Mines Act, 1923 (IV of 1923), in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground:

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or

(vi) employed as the master or as a seaman of—

- (a) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled, or
- (b) any ship not included in sub-clause (a) of fifty tons net tonnage or over; or
- (vii) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Indian Ports Act, 1908 (XV of 1908), of goods which have been discharged from or are to be loaded into any vessel; or

(viii) employed in the construction, repair or demolition of—

- (a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof; or
- (b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or
- (c) any road, bridge, or tunnel; or
- (d) any wharf, quay, sea-wall or other marine work including any moorings or ships; or
- (ix) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any over-head electric line or cable or post or standard for the same; or
- (x) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal pipeline, or sewer; or
- (xi) employed in the service of any fire brigade; or

- (xii) employed upon a railway as defined in clause (4) of section 3, and sub-section (1) of section 148 of the Indian Railways Act, 1890 (IX of 1890), either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or
- (xiii) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or
- (xiv) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or
- (xv) employed in any occupation involving blasting operations; or
- (xvi) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or
- (xvii) employed in the operation of any ferry boat capable of carrying more than ten persons; or
- (xviii) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or
- (xix) employed, otherwise than in a clerical capacity, in generating, transforming or supplying of electrical energy or in the generating or supply of gas; or
- (xx) employed in a lighthouse as defined in clause (d) of section 2 of the Indian Lighthouse Act, 1927 (XVII of 1927); or
- (xxi) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
- (xxii) employed in the training, keeping or working of elephants or wild animals; or
- <sup>145</sup>[xxiii] employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires; or
- (xxiv) employed in operations for the catching or hunting of elephants or other wild animals; or]
- <sup>145</sup>(xxv) employed as a diver; <sup>146</sup>[or
- (xxvi) employed in the handling or transport of goods in, or within the precincts of,—
  - (a) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or
  - (b) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed; or
- (xxvii) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radioactive substances.]

*Explanation.*—In this Schedule, "the preceding twelve months" relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

<sup>145</sup> Clauses (xxiii) and (xxiv) inserted and original clause (xxiii) re-numbered (xxv) by s. 11 of Act 9 of 1938.

<sup>146</sup> The word "or" and clauses (xxvi) and (xxvii) inserted *ibid.*



## SCHEDULE III.—(See section 3).

## List of Occupational Diseases.

Occupational Disease.	Employment.
<sup>147</sup> [PART A.]	
Anthrax ... ..	Any employment— (a) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns; or (b) in connection with animals infected with anthrax; or (c) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelae ...	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl ...	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes ...	Any process involving exposure to nitrous fumes.
PART B.]	
Lead poisoning or its sequelae <sup>148</sup> [excluding poisoning by lead-tetra-ethyl].	Any process involving the use of lead <sup>149</sup> [or any of its preparations or compounds except lead tetra-ethyl.]
Phosphorus poisoning or its sequelae ..	Any process involving the use of phosphorus or its preparations or compounds.
<sup>150</sup> [Mercury poisoning or its sequelae ...	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelae of such poisoning ...	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelae ...	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
<sup>151</sup> [Arsenical poisoning or its sequelae ...	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to— (a) radium and other radio active substances; (b) X-rays.	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances].

<sup>147</sup> Part A and the word and letter "Part B" inserted by s. 12 of Act 9 of 1938.<sup>148</sup> Added, *ibid*.<sup>149</sup> Subs. *ibid* for "or its preparations or compounds".<sup>150</sup> Entries added by s. 22 of Act 15 of 1933.<sup>151</sup> Entries substituted by s. 12 of Act 9 of 1938.

## 152 [SCHEDULE IV.—(See section 4).]

*Compensation payable in certain cases.*

Monthly wage of the work- man injured		Amount of compensation for—		Half-monthly payment as compensation for temporary Disablement of Adult
		Death of Adult	Permanent Total Dis- ablement of Adult	
I		2	3	4
More than	But not more than			
Rs.	Rs.	Rs.	Rs.	Rs. a.
0	10	500	700	Half his monthly wages.
10	15	550	770	5 0
15	18	600	840	6 0
18	21	630	882	7 0
21	24	720	1,008	8 0
24	27	810	1,134	8 8
27	30	900	1,260	9 0
30	35	1,050	1,470	9 8
35	40	1,200	1,680	10 0
40	45	1,350	1,890	11 4
45	50	1,500	2,100	12 8
50	60	1,800	2,520	15 0
60	70	2,100	2,940	17 8
70	80	2,400	3,360	20 0
80	100	3,000	4,200	25 0
100	200	3,500	4,900	30 0
153 [200	300	4,000	5,600	30 0
300	...	4,500	6,300	30 0]

152 Subs. by s. 23 of Act 15 of 1933 for the original Schedule.

153 Entries substituted by s. 3 of Act 1 of 1946.

# WORKMEN'S COMPENSATION RULES, 1924

## Arrangement of Paragraphs

### PRELIMINARY

1. Short title.
2. Definitions.

### PART I—REVIEW OF HALF MONTHLY PAYMENTS AND COMMUTATION THEREOF

3. When application may be made without medical certificate.
4. Procedure on application for review.
5. Procedure on application for commutation.

### PART II—DEPOSIT OF COMPENSATION

6. Deposit under Section 8 (1).
7. Publication of lists of deposits.
8. Application by dependants for deposit of compensation.
9. Deposit under Section 8 (2).
10. Investment of money.

### PART III—REPORTS OF ACCIDENTS

11. Report of fatal accidents.
12. Right of employer to present memorandum when information received.

### PART IV—MEDICAL EXAMINATION

13. Workmen not to be required to submit to medical examination save in accordance with rules.
14. Examination when workman and medical practitioner both on premises.
15. Examination in other cases.
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17. Examination after suspension of right to compensation.
18. Examination of women.

### PART V—PROCEDURE

19. Introductory.
20. Applications.
21. Production of documents.
22. Application presented to wrong Commissioner.
23. Examination of applicant.
24. Summary dismissal of application.
25. Preliminary enquiry into application.
26. Notice to opposite party.
27. Appearance and examination of opposite party.
28. Framing of issues.
29. Power to postpone trial of issues of fact where issues of law arise.
30. Diary.
31. Reason for postponement to be recorded.
32. Judgment.
33. Summoning of witnesses.
34. Exemption from payment of costs.
35. Right of entry for local inspection.
36. Procedure in connection with local inspection.
37. Power of summary examination.
38. Agreement to abide by Commissioner's decision.
39. Procedure where indemnity claimed under Section 12 (2).
40. Procedure in connected cases.
41. Certain provisions of Code of Civil Procedure, 1908, to apply.
42. Provision regarding signature of forms.
43. Apportionment of compensation among dependants.

### PART VI—TRANSFER

44. Transfer for report.
45. Transmission of money.

**PART VII—APPOINTMENT OF REPRESENTATIVES**

46. When representative must be appointed.
47. When new representative to be appointed.

**PART VIII—RECORD OF MEMORANDA OF AGREEMENT**

48. Form of memorandum.
  49. Procedure where Commissioner does not consider that he should refuse to record memorandum.
  50. Procedure where Commissioner considers he should refuse to record memorandum.
  51. Procedure on refusal to record memorandum.
  52. Registration of memorandum accepted for record.
- FORMS.

**WORKMEN'S COMPENSATION RULES, 1924<sup>1</sup>**

In exercise of the powers conferred by section 32 of the Workmen's Compensation Act, 1923 (VIII of 1923), the Central Government is pleased to make the following rules:—

**PRELIMINARY**

1. **Short title.**—These rules may be called the Workmen's Compensation Rules, 1924.
2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—
  - (a) "the Act" means the Workmen's Compensation Act, 1923;
  - (b) "Form" means a form appended to these rules;
  - (c) "section" means a section of the Act.

**PART I—REVIEW OF HALF MONTHLY PAYMENTS AND COMMUTATION THEREOF**

3. **When application may be made without medical certificate.**—Application for review of a half-monthly payment under section 6 may be made without being accompanied by a medical certificate—

- (a) by the employer, on the ground that since the right to compensation was determined the workmen's wages have increased;
- (b) by the workman, on the ground that since the right to compensation was determined his wages have diminished;
- (c) by the workman, on the ground that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no change in the workman's condition such as to warrant such cessation;
- (d) either by the employer or by the workman, on the ground that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means;
- (e) either by the employer or by the workman on the ground that in the determination of compensation there is a mistake or error apparent on the face of the record.

4. **Procedure on application for review.**—If, on examining an application for review by an employer in which the reduction or discontinuance of half-monthly payments is sought it appears to the Commissioner that there is reasonable ground for believing that the employer has a right to such reduction or discontinuance, he may at any time issue an order withholding the half-monthly payments in whole or in part pending his decision on the application.

5. **Procedure on application for commutation.**—(1) Where application is made to the Commissioner under section 7 for the redemption of a right to receive half-monthly payments by the payment of a lump sum, the Commissioner shall form an estimate of the probable duration of the disablement, and shall award a sum equivalent to the total of the half-monthly payments which would be payable for the period during which he estimates that the disablement will continue, less one-half per cent. of that total for each month comprised in that period :

Provided that fractions of a rupee included in the sum so computed shall be disregarded.

<sup>1</sup> These Rules were published under the Government of India, Department of Industries and Labour, Notification No. L-1182, dated 26th June, 1924.

(2) When, in any case to which sub-rule (1) applies, the Commissioner is unable to form an approximate estimate of the probable duration of the disablement, he may from time to time postpone a decision on the application for a period not exceeding two months at any one time.

#### PART II—DEPOSIT OF COMPENSATION

**6. Deposit under section 8 (1).—**(1) An employer depositing compensation with the Commissioner under sub-section (1) of section 8, in respect of a workman whose injury has resulted in death shall furnish therewith a statement in Form A, and shall be given a receipt in Form B. In other cases of deposits with the Commissioner under sub-section (1) of section 8, the employer shall furnish a statement in form AA, and shall be given a receipt in Form B.

(2) If, when depositing compensation in respect of fatal accidents, the employer indicates in the statement referred to in sub-rule (1) that he desires to be made a party to the distribution proceedings, the Commissioner shall, before allotting the sum deposited as compensation, afford to the employer an opportunity of establishing that the person to whom he proposes to allot such sum is not a dependant of the deceased workman or, as the case may be, that no one of such person is a dependant.

(3) The statement of disbursements to be furnished on application by the employer under sub-section (4) of section 8 shall be in Form C.

**7. Publication of lists of deposits.**—The Commissioner shall cause to be displayed in a prominent position outside his office an accurate list of the deposits received by him under sub-section (1) of section 8, together with the names and addresses of the depositors and of the workmen in respect of whose death or injury the deposits have been made.

**8. Application by dependants for deposit of compensation.**—(1) A dependant of a deceased workman may apply to the Commissioner for the issue of an order to deposit compensation in respect of the death of the workman. Such application shall be made in Form G.

(2) If compensation has not been deposited the Commissioner shall dispose of such application in accordance with the provisions of Part V of these rules :

Provided that—

(a) the Commissioner may, at any time before issues are framed, cause notice to be given in such manner as he thinks fit to all or any of the dependants of the deceased workman who have not joined in the application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf;

(b) any dependant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not be permitted thereafter to claim that the employer is liable to deposit compensation unless he satisfies the Commissioner that he was prevented by any sufficient cause from appearing when the case was called on for hearing.

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with sub-section (1) of section 8, nothing in sub-rule (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased workman who failed to join the application.

**9. Deposit under section 8 (2).**—An employer depositing compensation in accordance with sub-section (2) of section 8, shall furnish therewith a statement in Form D; and shall be given a receipt in Form E.

**10. Investment of money.**—Money in the hands of Commissioner may be invested for the benefit of the dependants of deceased workman in Government securities or Post Office Cash Certificates, or may be deposited in a Post Office Savings Bank.

#### PART III—REPORTS OF ACCIDENTS

**11. Report of fatal accidents.**—The report required by section 10B shall, subject to such rules, if any, as may be made by the local Government, be in Form EE.

**12. Right of employer to present memorandum when information received.**—(1) Any employer who has received information of an accident may at any time, notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Commissioner a memorandum, supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memoran-

dum, embodying the results of any investigation or inquiry which has been made into the circumstances or cause of the accident.

(2) A memorandum presented under sub-rule (1) shall, subject to the payment of such fee as may be prescribed, be recorded by the Commissioner.

#### PART IV—MEDICAL EXAMINATION

**13. Workman not to be required to submit to medical examination save in accordance with rules.**—A workman who is required by sub-section (1) of section 11 to submit himself for medical examination shall be bound to do so in accordance with the rules contained in this Part and not otherwise.

**14. Examination when workman and medical practitioner both on premises.**—When such workman is present at the employer's premises, and the employer offers to have him examined free of charge by a qualified medical practitioner who is so present, the workman shall submit himself for examination forthwith.

**15. Examination in other cases.**—In cases to which rule 14 does not apply the employer may—

- (a) send the medical practitioner to the place where the workman is residing for the time being in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner, or
- (b) send to the workman an offer in writing to have him examined free of charge by a qualified medical practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified.

Provided that—

- (i) the time so specified shall not, save with the express consent of the workman, be between the hours of 7 p.m. and 6 a.m., and
- (ii) in cases where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination save at such place.

**16. Restriction on number of examinations.**—A workman who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident or more than once in any subsequent month.

**17. Examination after suspension of right to compensation.**—If a workman whose right to compensation has been suspended under sub-section (2) or sub-section (3) of section 11 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity as may be fixed by the employer, and at a time to be fixed by the employer not being, save with the express consent of the workman, more than 72 hours after the workman has so offered himself.

**18. Examination of women.**—(1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female practitioner.

#### PART V—PROCEDURE

**19. Introductory.**—Save as otherwise provided in these rules, the procedure to be followed by Commissioner in the disposal of cases under the Act or these rules and by the parties in such cases shall be regulated in accordance with the rules contained in this Part.

**20. Applications.**—(1) Any application of the nature referred to in section 22 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinates authorised by him in this behalf and, if so sent or presented, shall, unless the Commissioner otherwise directs, be made in duplicate in the appropriate Form, if any, and shall be signed by the applicant.

(2) There shall be appended to every such application a certificate, which shall be signed by the applicant, to the effect that the statement of facts contained in the application is to the best of his knowledge and belief accurate.

**21. Production of documents.**—(1) When the application for relief is based upon a document, the document shall be appended to the application.

(2) Any other document which any party desires to tender in evidence shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2) as the case may be shall not, without the sanction of the Commissioner, be admissible in evidence on behalf of the party who should have produced it.

(4) Nothing in this rule applies to any document which is produced for the purpose of cross-examining a witness or is handed to a witness to refresh his memory.

**22. Application presented to wrong Commissioner.**—(1) If it appears to the Commissioner on receiving application that it should be presented to another Commissioner, he shall return it to the applicant after endorsing upon it the date of the presentation and return, the reason for returning it and designation of the Commissioner to whom it should be presented.

(2) If it appears to the Commissioner at any subsequent stage that an application should have been presented to another Commissioner, he shall send the application to the Commissioner empowered to deal with it and shall inform the applicant (and the opposite party, if he has received a copy of the application under rule 26), accordingly.

(3) The Commissioner to whom an application is transferred under sub-rule (2) may continue the proceedings as if the previous proceedings or any part of them had been taken before him, if he is satisfied that the interests of the parties will not thereby be prejudiced.

**23. Examination of applicant.**—(1) On receiving an application of the nature referred to in section 22, the Commissioner may examine the applicant on oath, or may send the application to any officer authorised by the Local Government in this behalf and direct such officer to examine the applicant and his witnesses and forward the record thereof to the Commissioner.

(2) The substance of any examination made under sub-rule (1) shall be recorded in the manner provided for the recording of evidence in section 25.

**24. Summary dismissal of application.**—(1) The Commissioner may, after considering the application and the result of any examination of the applicant under rule 23, summarily dismiss the application, if, for reasons to be recorded, he is of opinion that there are no sufficient grounds for proceeding thereon.

(2) The dismissal of the application under sub-rule (1) shall not of itself preclude the applicant from presenting a fresh application for the settlement of the same matter.

**25. Preliminary inquiry into application.**—If the application is not dismissed under rule 24, the Commissioner may, for reasons to be recorded, call upon the applicant to produce evidence in support of the application before calling upon any other party, and, if upon considering such evidence the Commissioner is of opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

**26. Notice to opposite party.**—If the Commissioner does not dismiss the application under rule 24 or 25, he shall send to the party from whom the applicant claims relief (hereinafter referred to as the opposite party) a copy of the application, together with a notice of the date on which he will dispose of the application, and may call upon the parties to produce upon that date any evidence which they may wish to tender.

**27. Appearance and examination of opposite party.**—(1) The opposite party may, and if so required by the Commissioner, shall, at or before the first hearing or within such time as the Commissioner may permit, file a written statement dealing with the claim raised in the application, and any such written statement shall form part of the record.

(2) If the opposite party contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim, and shall reduce the result of examination to writing.

**28. Framing of issues.**—(1) After considering any written statement and the result of any examination of the parties, the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those issues which in his opinion concern points of facts and those which concern points of law.

**29. Power to postpone trial of issues of fact where issues of law arise.**—When issues both of law and of fact arise in the same case, and the Commissioner is of opinion that the case may be disposed of on the issues of law only, he may try those issues first, and for that purpose may, if he thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

**30. Diary.**—The Commissioner shall maintain under his hand a brief diary of the proceedings on an application.

**31. Reasons for postponement to be recorded.**—If the Commissioner finds it impossible to dispose of an application at one hearing he shall record the reasons which necessitate a postponement.

**32. Judgment.**—(1) The Commissioner, in passing orders, shall record concisely a judgment containing his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

**33. Summoning of witnesses.**—If an application is presented by any party to the proceedings for the citation of witnesses, the Commissioner shall on payment of the prescribed expenses and fees, issue summonses for the appearance of such witnesses, unless he considers that their appearance is not necessary for the just decision of the case.

**34. Exemption from payment of costs.**—If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid, may be added to the costs of the case and received in such manner as the Commissioner in his order regarding costs may direct.

**35. Right of entry for local inspection.**—A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any persons likely to be able to give information relevant to the proceedings:

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

**36. Procedure in connection with local inspection.**—(1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to conduct such inspection, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing, and, in the case of an employer, may be given to any person upon whom notice of a claim can be served under sub-section (2) of section 10, or the representative of any such person.

(3) Any party, or the representative of any party, may accompany the Commissioner at a local inspection.

(4) The Commissioner, after making a local inspection, shall note briefly in a memorandum any facts observed, and shall show the memorandum to any party who desires to see the same, and, on payment of the prescribed fee shall supply any party with a copy thereof.

(5) The memorandum shall form part of the record.

**37. Power of summary examination.**—(1) The Commissioner during a local inspection or at any other time, save at a formal hearing of a case pending before him, may examine summarily any person likely to be able to give information relative to such case, whether such person has been or is to be called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under sub-rule (1).

(3) Statements made by persons examined under sub-rule (1), if reduced to writing, shall not be signed by the person making the statement, nor shall they except as hereinafter provided, be incorporated in the record or utilised by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under sub-rule (1) makes in evidence any material statement contradicting any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that case direct that the parties be furnished with the relevant part of such statement for the purpose of examining or cross-examining the witness.

(5) Any statement or part of a statement which is furnished to the parties under sub-rule (4) shall be incorporated in the record.



(6) Where a case is settled by agreement between the parties, the Commissioner may incorporate in the record any statement made under sub-rule (1) and may utilise such statement for the purpose of justifying his acceptance of, or refusal to accept, the agreement reached.

**38. Agreement to abide by Commissioner's decision.**—(1) If a party states in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall inquire whether the other party is willing to abide by his decision.

(2) If the other party agrees to abide by the Commissioner's decision, the fact of his agreement shall be recorded in writing and signed by him.

(3) If the other party does not agree to abide by the Commissioner's decision, the first party shall not remain under an obligation so to abide.

**39. Procedure where indemnity claimed under section 12 (2).**—(1) Where the opposite party claims that if compensation is recovered against him he will be entitled under sub-section (2) of section 12 to be indemnified by a person not being a party to the case, he shall, when first called upon to answer the application present a notice of such claim to the Commissioner accompanied by the prescribed fee, and the Commissioner shall thereupon issue notice to such person in Form J.

(2) If any person served with a notice under sub-section (1) desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings; in default of so appearing he shall be deemed to admit the validity of any award made against the opposite party and to admit his own liability to indemnify the opposite party for any compensation recovered from him;

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to the aforesaid opposite party, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(3) If any person served with a notice under sub-rule (1) whether or not he desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by a person standing to him in the relation of a contractor from whom the workman could have recovered compensation he shall on or before the date fixed in the notice under sub-rule (1) present a notice of such claim to the Commissioner accompanied by the prescribed fee and the Commissioner shall thereupon issue notice to such person in Form JJ.

(4) If any person served with a notice under sub-rule (3) desires to contest the applicant's claim for compensation, or the claim under sub-rule (3) to be indemnified he shall appear before the Commissioner on the date fixed in the notice in Form JJ or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings; in default of so appearing he shall be deemed to admit the validity of any award made against the original opposite party or the person served with a notice under sub-rule (1) and to admit his own liability to indemnify the party against whom such award is made for any compensation recovered from him: Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person under this rule upon such terms as may be just.

(5) In any proceeding in which a notice has been served on any person under sub-rule (1) or sub-rule (3) the Commissioner shall, if he awards compensation, record in his judgment a finding in respect of each of such persons whether he is or is not liable to indemnify any of the opposite parties, and shall specify the party, if any, whom he is liable to indemnify.

**40. Procedure in connected cases.**—(1) Where two or more cases pending before a Commissioner arise out of the same accident, and any issue involved is common two or more such cases, such cases may, so far as the evidence bearing on such issue is concerned, be heard simultaneously.

(2) Where action is taken under sub-rule (1) the evidence bearing on the common issue or issues shall be recorded on the record of one case, and the Commissioner shall certify under his hand on the record of any such other case, the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present of cross-examining the witnesses.

**41. Certain provisions of Code of Civil Procedure, 1908, to apply.**—Save as otherwise expressly provided in the Act or these rules the following provisions of the First Schedule

to the Code of Civil Procedure, 1908, namely, those contained in Order V, rules 9 to 13 and 15 to 30; Order IX; Order XIII, rules 3 to 10; Order XVI, rules 2 to 21; Order XVII; and Order XXIII, rules 1 and 2, shall apply to proceedings before Commissioners, in so far as they may be applicable thereto:

Provided that—

- (a) for the purpose of facilitating the application of the said provisions the Commissioner may construe them with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before him;
- (b) the Commissioner may, for sufficient reasons, proceed otherwise than in accordance with the said provisions, if he is satisfied that the interests of the parties will not thereby be prejudiced.

**42. Provision regarding signature of forms.**—Any form, other than a receipt for compensation, which is by these rules required to be signed by a Commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

**43. Apportionment of compensation among dependants.**—The provisions of this Part, except those contained in rules 26, 27 and 39 shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependants of a deceased workman.

#### PART VI—TRANSFER

**44. Transfer for report.**—(1) A Commissioner transferring any matter to another Commissioner for report in accordance with sub-section (2) of section 21 shall, along with the documents referred to in that sub-section, transmit to such other Commissioner a concise statement, in the form of questions for answer, of the matter on which report is required.

(2) A Commissioner to whom a case is so transferred for report shall not be required to report on any question of law.

**45. Transmission of money.**—Money transmitted by one Commissioner to another in accordance with sub-section (2) of section 21 shall be transmitted either by remittance transfer receipt, or by money order, or by messenger, as the Commissioner transmitting the money may direct.

#### PART VII—APPOINTMENT OF REPRESENTATIVES

**46. When representative must be appointed.**—Where any party to a proceeding is under the age of 15 years or is unable to make an appearance, the Commissioner shall appoint some suitable person, who consents to the appointment, to represent such party for the purposes of the proceeding.

**47. When new representative to be appointed.**—If the Commissioner considers that the interests of any party for whom a representative has been appointed under rule 46 are not being adequately protected by that representative or if a person appointed to act as representative dies or becomes incapable of acting, or otherwise ceases to act as such, the Commissioner shall appoint in his place another person who consents to the appointment.

#### PART VIII—RECORD OF MEMORANDA OF AGREEMENT

**48. Form of memorandum.**—Memoranda of agreement sent to the Commissioner under sub-section (1) of section 28 shall unless the Commissioner otherwise directs be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form K or Form L or Form M as the case may be.

**49. Procedure where Commissioner does not consider that he should refuse to record memorandum.**—(1) On receiving a memorandum of agreement, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice in writing in Form N to the parties concerned that in default of objections he proposes to record the memorandum on the date so fixed:

Provided that the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded:

Provided that the issue of a notice under sub-rule (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed even if no objection be made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded, he shall inform the parties present of his decision and of the reasons therefor, and, if any party desiring the memorandum to be recorded is not present, he shall send information to that party in Form O.

**50. Procedure where Commissioner considers he should refuse to record memorandum.**—(1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same, he shall fix a date for hearing the party or parties desiring the memorandum to be recorded, and shall inform such party or parties and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in Form P or Form Q, as the case may be, and the date fixed in such notice shall be not less than seven days after the date of the issue of the same.

(3) If, on the date fixed under sub-rule (1) the party or parties desiring the memorandum to be recorded show adequate cause for proceeding to the record of the same, the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with rule 49.

(4) If, on the date so fixed, the Commissioner refuses to record the memorandum, he shall send notice in Form O to any party who did not receive information under sub-rule (1).

**51. Procedure on refusal to record memorandum.**—(1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payment of a lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

**52. Registration of memorandum accepted for record.**—In recording a memorandum of agreement, the Commissioner shall cause the same to be entered in a register in Form R and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms, namely:—

“This memorandum of agreement bearing Serial No. \_\_\_\_\_ of 19 \_\_\_\_\_ in the register has been recorded this \_\_\_\_\_ day of \_\_\_\_\_

(Signature)

Commissioner”.

#### FORM A—[See rule 6(1)]

#### *Deposit of Compensation for Fatal Accident*

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs.....is hereby presented for deposit in respect of injuries resulting in the death of the Workman, whose particulars are given below, which occurred on.....

Name.....

Father's name.....

(Husband's name in case of married woman and widow.)

Caste.....

Local address .....

Permanent address.....

His monthly wages are estimated at Rs..... His  
Her She

was  $\frac{\text{over}}{\text{under}}$  the age of 15 years at the time of  $\frac{\text{His}}{\text{Her}}$  death.

2. The said workman had, prior to the date of his/her death received the following payments, namely:—

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

amounting in all to Rs.....

3. An advance of Rs.....has been made on account of compensation to.....being  $\frac{\text{his}}{\text{her}}$  dependant.

4. \*I do not desire to be made a party to the proceedings for distribution of the afore-said compensation.

Dated.....19.....

Employer.

FORM AA—[See rule 6(1)]

*Deposit of Compensation for Non-fatal Accident to a woman or person under legal disability*

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs.....is hereby presented for deposit in respect of injuries sustained by.....residing at.....

on.....19....., resulting in  $\frac{\text{the loss of}}{\text{temporary disablement.}}$

His monthly wages are estimated at Rs..... He  
Her She was  $\frac{\text{over}}{\text{under}}$

the age of 15 years at the time of the accident.

2. The said injured workman has prior to the date of the deposit received the following half-monthly payments, namely:—

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

Rs.....on.....Rs.....on.....

Dated.....19.....

Employer.

FORM B—[See rule 6]

*Receipt for Compensation*

[Deposited under section 8(1) of the Workmen's Compensation Act, 1923]

Book No. Receipt No. Register No.

Depositor.....

Deceased or injured workman.....

Date of deposit.....19.....

Sum deposited Rs.....

Commissioner.

\*An employer desiring to be made a party to the proceedings should strike out the words "do not".

## INDIAN LABOUR CODE

## FORM C—[See rule 6]

## Statement of Disbursements

[Section 8(4) of the Workmen's Compensation Act, 1923]

Serial No.....

Depositor.....

Date

Rs.

Amount deposited.....

Amount deducted and repaid to the employer under the proviso to section 8 (1).....

Funeral expenses paid.....

Compensation paid to the following dependants:—

Name

Relationship

Total

Dated.....19

Commissioner.

## FORM D—[See rule 9]

*Deposit of Compensation for Non-fatal Accidents, other than to a woman or person under legal disability*

[Section 8(2) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs.....is hereby presented for deposit in respect of  
permanent  
temporary injuries sustained by.....residing  
 at.....which occurred on.....19

Employer.

Dated.....19

## FORM E—[See rule 9]

## Receipt for Compensation

[Deposited under section 8(2) of the Workmen's Compensation Act, 1923]

Book No.

Receipt No.

Register No.

Depositor.....

In favour of.....

Date of deposit.....19

Sum deposited Rs.....

Commissioner.

## FORM EE—[See rule 11]

## Report of Fatal Accidents

To .....

Sir,  
 I have the honour to submit the following report of an accident which occurred on  
 .....(date), at.....(here enter details of premises)  
 .....and which resulted in the death of the workman of whom  
 particulars are given in the statement annexed.

2. The circumstances attending the death of the workman were as under:—  
workmen

- (a) Time of the accident:
- (b) Place where the accident occurred:
- (c) Manner in which deceased was/were employed at the time:
- (d) Cause of the accident:
- (e) Any other relevant particulars.

I have, etc.

Signature and designation of person making the report.

*Statement*

Name	Sex	Age	Nature of employment	Full postal address

FORM F—[See rule 20]

*Application for Compensation by Workman*

To the Commissioner for Workmen's Compensation.

.....  
residing at ....., applicant

*versus*

.....  
residing at ....., opposite party

It is hereby submitted that—

(1) the applicant, a workman employed by (a contractor with) the opposite party on the..... day of .....19....., received personal injury by accident arising out of and in the course of his employment. The cause of the injury was (*here insert briefly in ordinary language the cause of the injury*).....

(2) the applicant sustained the following injuries, namely:— .....

(3) the monthly wages of the applicant amount to Rs.....the applicant is over.....the age of 15 years.  
under

\*(4) (a) Notice of the accident was served on the.....day of.....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of.....

(5) the applicant is accordingly entitled to receive—

(a) half monthly payment of Rs.....from the.....day of.....19.....to.....

(b) a lump sum payment of Rs.....

(6) the applicant has taken the following steps to secure a settlement by agreement, namely.....

but it has proved impossible to settle the questions in dispute because.....

\*You are therefore requested to determine the following questions in dispute, namely:—

(a) whether the applicant is a workman within the meaning of the Act;

\*Strike out the clauses which are not applicable.

- (b) whether the accident arose out of or in the course of the applicant's employment;  
 (c) whether the amount of compensations claimed is due, or any part of that amount;  
 (d) whether the opposite party is liable to pay such compensation as is due;  
 (e) etc., (as required).

Dated.....19 .....

.....Applicant.

FORM G—[See rule 20]

*Application for Order to Deposit Compensation*

To the Commissioner for Workmen's Compensation,

.....residing at  
 ....., applicant  
 versus

.....residing at  
 ....., opposite party

It is hereby submitted that—

- (1) ....., a workman employed by (a contractor with  
 the opposite party on the.....day of.....19.....,  
 received personal injury by accident arising out of and in the course of his  
 employment resulting in his death on the.....  
 day of.....19..... The cause of the injury was (*here*  
*insert briefly in ordinary language the cause of the injury*).....

- (2) The applicant(s)  $\frac{\text{is a}}{\text{are}}$  dependant(s) of the deceased workman being his.....

- (3) The monthly wages of the deceased amount to Rs.....

The deceased was  $\frac{\text{over}}{\text{under}}$  the age of 15 years at the time of his death

- \*(4) (a) Notice of the accident was served on the.....  
 day of.....

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of.....

- (5) The deceased before his death received as compensation the total sum of  
 Rs.....

The applicant(s)  $\frac{\text{is}}{\text{are}}$  accordingly entitled to receive a lump sum payment of

Rs.....

You are therefore requested to award to the applicant the said compensation or any  
 other compensation to which he may be entitled.

Dated.....19 .....Applicant.

FORM H—[See rule 20]

*Application for Commutation*

(Under section 7 of the Workmen's Compensation Act, 1923)

To the Commissioner for Workmen's Compensation,

.....residing at  
 ....., applicant.

versus

.....residing at  
 ....., opposite party.

\* Strike out the clauses which are not applicable.

It is hereby submitted that—

- (1) The applicant has been in receipt of half-monthly payments from.....  
opposite party .....to.....in respect of temporary disablement  
 by accident arising out of and in the course of his employment.
- (2) The applicant is desirous that the right to receive half-monthly payments should  
 be redeemed.
- (3) (a) The opposite party is unwilling to agree to the redemption of the right to  
 receive half-monthly payments.
- (b) The parties have been unable to agree regarding the sum for which the  
 right to receive half-monthly payments should be redeemed.
- You are therefore requested to pass orders—
- (a) directing that the right to receive half-monthly payments should be redeemed,  
 (b) fixing a sum for the redemption of the right to receive half-monthly payments.

.....Applicant.

Dated.....19 .

#### FORM J—[See rule 39]

##### Notice

Whereas a claim for compensation has been made by.....applicant,  
 against.....and the said.....has claimed that you are  
 liable under section 12(2) of the Workmen's Compensation Act, 1923, to indemnify him  
 against any compensation which he may be liable to pay in respect of the aforesaid claim,  
 you are hereby informed that you may appear before me on.....  
 .....and contest the claim for compensation made by the said applicant or the claim  
 for indemnity made by the opposite party. In default of your appearance you will be  
 deemed to admit the validity of any award made against the opposite party and your  
 liability to indemnify the opposite party for any compensation recovered from him.

Dated.....19 .

Commissioner.

#### FORM JJ—[See rule 39]

##### Notice

Whereas a claim for compensation has been made by.....  
 applicant, against.....and the said.....  
 has claimed that.....is liable under section 12 (2) of the Workmen's  
 Compensation Act, 1923, to indemnify him against any compensation which he may be liable  
 to pay in respect of the aforesaid claim, and whereas the said.....  
 on notice served has claimed that you.....stand to him in the  
 relation of a contractor from whom the applicant.....could  
 have recovered compensation you are hereby informed that you may appear before me  
 on.....and contest the claim for compensation made by  
 the said applicant or the claim for indemnity made by the opposite party.....  
 ..... In default of your appearance you will be deemed to admit the  
 validity of any award made against the opposite party.....  
 and your liability to indemnify the opposite party.....  
 .....for any compensation recovered from him.

Dated.....19 .

Commissioner.

#### FORM K—[See rule 48]

##### Memorandum of Agreement

It is hereby submitted that on the.....day of.....  
 .....19 , personal injury was caused to .....  
 residing at.....by accident arising out of and in the course  
 of employment in..... The said injury has



resulted in temporary disablement to the said workman whereby it is estimated that he will be prevented from earning more than of his previous wage for a period.....  
any  
months. The said workman has been in receipt of half-monthly payments which have continued from the.....day of.....  
19.....until the.....day of.....19.....amounting to  
Rs.....in all. The said workman's monthly wages are  
estimated at Rs..... The workman is over the age of 15 years.  
will reach the age of 15 years on....

It is further submitted that.....the employer of the said workman, has agreed to pay, and the said workman has agreed to accept the sum of Rs.....  
.....in full settlement of all and every claim under the Workmen's Compensation Act, 1923, in respect of all disablement of a temporary nature arising out of the said accident, whether now or hereafter to become manifest. It is therefore requested that this memorandum be duly recorded.

Dated.....

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

(NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible).

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.....

Dated.....19 ..



.....Workman.

The money has been paid and this receipt signed in my presence.

.....Witness.

NOTE.—This form may be varied to suit special cases, e.g., injury by occupational disease, agreement when workman is under legal disability, etc.

FORM L—[See rule 48.]

#### Memorandum of Agreement

It is hereby submitted that on the.....day of.....19 .., personal injury was caused to....., residing at....., by accident arising out of and in the course of his employment in..... The said injury has resulted in permanent disablement to the said workman of the following nature, namely:

The said workman's monthly wages are estimated at Rs.....The workman is over the age of 15 years.  
will reach the age of 15 years on..... The said workman has, prior to the date of this agreement, received the following payments, namely:

Rs. .... on .....	Rs. .... on .....
Rs. .... on .....	Rs. .... on .....
Rs. .... on .....	Rs. .... on .....

It is further submitted that....., the employer of the said workman, has agreed to pay, and the said workman has agreed to accept the sum of Rs.....in full settlement of all and every claim under the Workmen's

Compensation Act, 1923, in respect of the disablement stated above and all disablement now manifest. It is therefore requested that this memorandum be duly recorded.

Dated.....19 ..

Signature of employer .....  
Witness .....

Signature of workman .....  
Witness .....

NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.....

Dated.....19 ..  .....Workman.

The money has been paid and this receipt signed in my presence.

.....Witness.

NOTE.—This form may be varied to suit special cases, e.g., injury by occupational disease, agreement when workman is under legal disability, etc.

#### FORM M—[See rule 48.]

#### Memorandum of Agreement

It is hereby submitted that on the.....  
day of.....19 .....personal injury was caused  
to....., residing at.....by accident arising  
out of and in the course of employment in.....

The said injury has resulted in temporary disablement to the said workman, who is at  
present in receipt of wages amounting to Rs.—per month  
no wages The said workman's monthly  
wages prior to the accident are estimated at Rs..... The workman  
is subject to a legal disability by reason of.....

It is further submitted that.....the employer of the  
workman has agreed to pay and.....on behalf of the said workman  
has agreed to accept half-monthly payments at the rate of Rs. ....for  
the period of the said temporary disablement. This agreement is subject to the condition  
that the amount of the half-monthly payments may be varied in accordance with the  
provisions of the said Act on account of an alteration in the earnings of the said workman  
during disablement. It is further stipulated that all rights of commutation under section 7  
of the said Act are unaffected by this agreement. It is therefore requested that this memo-  
randum be duly recorded.

Dated.....19 ..

Signature of employer .....  
Witness.....

Signature of workman.....  
Witness.....

(NOTE.—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible).

Receipt (to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.....

Dated.....19 .



.....Workman.

The money has been paid and this receipt signed in my presence.

.....Witness.

NOTE.—This form may be varied to suit special cases, e.g., injury by occupational disease, etc.

#### FORM N—[See rule 49.]

Whereas an agreement to pay compensation is said to have been reached between..... and ..... and whereas ..... has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, notice is hereby given that the said agreement will be taken into consideration on.....19 , and that any objections to the registration of the said agreement should be made on that date. In the absence of valid objections it is my intention to proceed to the registration of the agreement.

Dated.....19 .

.....Commissioner.

#### FORM O—[See rules 49 and 50.]

Take notice that registration of the agreement to pay compensation said to have been reached between you..... and ..... on the .....19 , has been refused for the following reasons, namely:—

Dated.....19 .

.....Commissioner.

#### FORM P—[See rule 50.]

Whereas an agreement to pay compensation is said to have been reached between..... and ..... and whereas..... has have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely:—

..... an opportunity will be afforded to you of showing cause on.....19 , why the said agreement should be registered. If no adequate cause is shown on that date, registration of the agreement will be refused.

Dated.....19 .

.....Commissioner.

#### FORM Q—[See rule 50.]

Whereas an agreement to pay compensation is said to have been reached between..... and ..... and whereas ..... has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely:.....

..... an opportunity will be afforded to the said..... of showing cause on.....19 , why the said agreement should be registered. Any representation which you have to make with regard to the said agreement should be made on that date. If adequate cause is then shown, the agreement may be registered.

Dated.....19 .

.....Commissioner.

**WORKMEN'S COMPENSATION (TRANSFER OF MONEY) RULES, 1935****1001****FORM R—[See rule 52.]***Register of Agreements for the year 19*

Serial number	Date of agreement	Date of registration	Employer	Workman	Initials of Commissioner	Reference to orders rectifying the register

**WORKMAN'S COMPENSATION (TRANSFER OF MONEY)  
RULES, 1935****Arrangement of Paragraphs****PART I—GENERAL****PART II—TRANSFER OF MONEY PAID TO A COMMISSIONER FOR THE BENEFIT OF  
ANY PERSON RESIDING OR ABOUT TO RESIDE IN ANOTHER COUNTRY****PART III—RECEIPT AND ADMINISTRATION IN INDIA OF ANY MONEY AWARDED UNDER THE  
LAW RELATING TO WORKMEN'S COMPENSATION IN ANOTHER COUNTRY****WORKMEN'S COMPENSATION (TRANSFER OF MONEY)  
RULES, 1935<sup>1</sup>**

In exercise of the powers conferred by section 35 of the Workmen's Compensation Act, 1923 (VIII of 1923), the Governor General in Council is pleased to make the following rules for the transfer to any part of His Majesty's Dominions or to any other country of money paid to a Commissioner under the Act for the benefit of any person residing or about to reside in such part or country and for the receipt and administration in British India of any money awarded under the law relating to workmen's compensation in any part of His Majesty's Dominions or in any other country, and applicable for the benefit of any person residing or about to reside in British India.

**RULES****PART I—GENERAL**

1. (1) These rules may be called the Workmen's Compensation (Transfer of Money) Rules, 1935.
- (2) They extend to the whole of India except the State of Jammu and Kashmir.
2. In these rules, unless there is anything repugnant in the subject or context,—
  - (a) "the Act" means the Workmen's Compensation Act, 1923
  - (b) "authorised officer" means any officer whom the State Government may designate either generally or in respect of any area or class of cases, for the purpose of performing the functions assigned by these rules to the authorised officer,
  - (bb) India in these rules does not include the State of Jammu and Kashmir.
  - (c) "transferring authority" means any authority in any part of His Majesty's Dominions or in any other country who transfers or causes to be transferred any lump sum awarded under the law relating to workmen's compensation in such part or country and applicable for the benefit of any person residing or about to reside in India.
3. When any sum is transmitted by any authority in India to any other authority in accordance with these rules, the costs of such transmission may be deducted from the sum so transmitted.

<sup>1</sup> These Rules were published under the Government of India, Department of Industries and Labour, Notification No. L-3033, dated the 13th March, 1935.

4. Money transmitted by any authority in India to any other authority in India in accordance with these rules, shall be transmitted by remittance transfer receipt or by money order.

**PART II.—TRANSFER OF MONEY PAID TO A COMMISSIONER FOR THE BENEFIT OF ANY PERSON RESIDING OR ABOUT TO RESIDE IN ANOTHER COUNTRY.**

5. When the whole or any part of a lump sum deposited with a Commissioner for payment as compensation under the Act is payable to any person or persons residing or about to reside in any other country, the Commissioner may order the transfer to that country of the sum so payable.

6. When the Commissioner has ordered the transfer of any sum under rule 5; he shall cause to be prepared and shall certify under his hand a memorandum containing a brief statement of the facts of the case, of the orders passed upon it, and of the name and address of each person to whom payment is to be made.

7. If the Commissioner is not himself the authorised officer he shall forward the memorandum in duplicate to the authorised officer and may either remit the sum to be transferred to the authorised officer or retain it and dispose of it in accordance with the directions of the authorised officer. If the Commissioner is himself the authorised officer, he shall proceed as provided in rule 8.

8. The authorised officer, after satisfying himself that the memorandum is complete, shall forward it, and remit or cause to be remitted the sum to which it relates by such means of safe transmission as he may consider convenient to the authority appointed in this behalf for the country to which the sum is to be transferred, or if no such authority has been appointed, to such authority as the State Government may by general or special order direct, and shall at the same time request the authority addressed—

(a) to arrange for payment to be made in accordance with the directions contained in the memorandum; and

(b) to furnish him with a report of the action taken upon the memorandum and return any sum the payment of which is for any reason impossible.

9. (1) The authorised officer shall, if he is not the Commissioner with whom the matter originated, forward to such Commissioner a copy of any report received in response to a request made under rule 8.

(2) Any sum returned in accordance with rule 8 shall be disposed of in accordance with the Act.

**PART III.—RECEIPT AND ADMINISTRATION IN INDIA OF ANY MONEY AWARDED UNDER THE LAW RELATING TO WORKMEN'S COMPENSATION IN ANOTHER COUNTRY**

10. (1) The authorised officer shall be the proper authority to receive moneys from transferring authorities.

(2) If any Commissioner or other Government servant, not being the authorised officer, receives any sum from a transferring authority he shall either forward such sum, together with any papers relating thereto, to the authorised officer for disposal or obtain the instructions of the authorised officer as to the disposal of the sum and papers and act in accordance with his instructions.

11. The authorised officer may himself dispose of any sum or part of any sum which he receives or of which he assumes control under rule 10 or may send it or any part of it for disposal to such Commissioner or Commissioners as he considers proper.

12. All sums received from a transferring authority shall be disposed of as far as possible in accordance with the provisions of the Act and the Workmen's Compensation Rules, 1924:

Provided that the directions, if any, received from the transferring authority as to the manner in which the sum should be administered shall be complied with.

13. (1) The authorised officer shall forward to the transferring authority a report showing how the sum received from him has been disposed of.

(2) Any Commissioner, not being the authorised officer, who has disposed of any part of the sum, shall make a report in duplicate as to the disposal of that part to the authorised officer, and, if the sum was received by him from another such Commissioner acting in accordance with section 21 of the Act, shall forward his report through that Commissioner.

14. Any part of the sum received from the transferring authority which shall have remained undischarged after the completion of the proceedings shall be returned to the transferring authority by, or under the direction of, the authorised officer.

# LIST OF AUTHORISED OFFICERS APPOINTED UNDER THE WORKMEN'S COMPENSATION (TRANSFER OF MONEY) RULES, 1935

Authorised officer or officers	Area for which appointed
PART 'A' STATES	
Chief Secretary to the Government of Assam, Shillong	Assam.
The Commissioner of Labour, Bihar	Bihar
The Commissioner for Workmen's Compensation, Bombay	Bombay.
The Labour Commissioner, Madhya Pradesh, Nagpur	The Madhya Pradesh.
The Commissioner for Workmen's Compensation, Madras	Madras.
The Ceylon Emigration Commissioner, Trichinopoly...	Madras in respect of disbursement of compensation transferred from Ceylon in cases of non-fatal accidents.
The Director of Industries, Orissa, Cuttack	Orissa.
The Labour Commissioner, Punjab, Simla	The Punjab.
The Labour Commissioner, Uttar Pradesh, Kanpur...	The Uttar Pradesh.
The Commissioner for Workmen's Compensation, West Bengal, Calcutta.	West Bengal.
PART 'B' STATES	
The Commissioner for Workmen's Compensation (Labour Commissioner). Hyderabad	Hyderabad.
Judges of Labour Courts at Indore, Ujjain and Gwalior, Madhya Bharat	Within the jurisdiction in which they function as Commissioners for Workmen's Compensation, in Madhya Bharat.
The Commissioner of Labour, Mysore, Bangalore	Mysore.
Subordinate Judges of the 1st Class in Patiala, Sangrur, Barnala, Bhatinda, Bassi-Pathanan, Kandaghat, Kapurthala and Narnaul in Patiala and East Punjab States Union	Patiala Sangrur Barnala Bhatinda Bassi-Pathanan Kandaghat Kapurthala Narnaul respectively.
The Labour Commissioner, Rajasthan	Rajasthan
The Civil Judge, Senior Division, Rajkot, Saurashtra	The areas comprised within the Central Saurashtra District.
The Civil Judge, Senior Division, Jamnagar, Saurashtra	The areas comprised within Halar District.
The Civil Judge, Senior Division, Bhavnagar, Saurashtra	The areas comprised within Gohilwad District.
The Civil Judge, Senior Division, Surendranagar, Saurashtra	The areas comprised within Zalawad District.
The Civil Judge, Senior Division, Junagadh, Saurashtra	The areas comprised within Sorath District.
The Labour Commissioner, Travancore-Cochin	Within their respective jurisdictions in Travancore-Cochin.
The District Magistrate Trichur, Travancore	
The Judge, Small Causes Court and Commissioner for	
PART 'C' STATES	
The Judge, Small Cause Court and Commissioner for Workmen's Compensation, Ajmer	Ajmer State.

District Magistrate, Sehore District, Bhopal	..	Sehore District	} Bhopal State.
District Magistrate, Raisen District, Bhopal	...	Raisen District	
Additional District Magistrate, City of Bhopal, Bhopal	... ..	City of Bhopal	
District Magistrate, Bilaspur	...	Bilaspur State.	
The District Judge of Coorg, Coorg	...	Coorg.	
The Commissioner for Workmen's Compensation, Delhi	... ..	Delhi State.	
Director of Industries, Himachal Pradesh	...	Himachal Pradesh State.	
District Judge, Kutch	...	Kutch State.	
Rajkumar Sanahal Singh, Taxation Officer, Manipur, Imphal	... ..	Manipur State.	
Secretary to the Government of Tripura, Industries Department, Tripura	... ..	Tripura State.	
Deputy Commissioners (Commissioners for Workmen's Compensation)	... ..	Respective districts, Vindhya Pradesh	

## PART 'D' STATE

Deputy Commissioner, Andamans & Nicobar Islands .. Andamans and Nicobar Islands

WORKMEN'S COMPENSATION RETURNS<sup>1</sup>

In exercise of the powers conferred by section 16 of the Workmen's Compensation Act, 1923 (VIII of 1923) and in supersession of the Notification of the Government of India in the Department of Industries and Labour, No. L.-1189, dated the 26 June 1924, the Governor General in Council is pleased to direct that an annual return in the form set forth in the Schedule hereto annexed shall be furnished by every person employing workmen who are:—

- (A) employed in a place which is a factory within the meaning of clause (j) of section 2 of the Factories Act, 1934;
- (B) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act;
- (C) employed as railway servants otherwise than in a factory or mine;
- (D) employed, otherwise than in a clerical capacity or in a factory or mine, in connection with the operation or maintenance of a tramway as defined in section 3 of the Indian Tramways Act, 1886;
- (E) employed in any of the following categories but not falling under any of the foregoing heads (A), (B), (C) and (D):—
  - (i) otherwise than in a clerical capacity in the service of any Port Trust or Port Commission within the limits of any port subject to the Indian Ports Act, 1908;
  - (ii) in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed;
  - (iii) in the service of any fire brigade;
  - (iv) otherwise than in a clerical capacity in connection with operations for winning natural petroleum or natural gas;
  - (v) otherwise than in a clerical capacity on any estate which is maintained for the purpose of growing cinchona, coffee, rubber, or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed;
  - (vi) otherwise than in a clerical capacity in the generating, transforming or supplying of electrical energy;
  - (vii) in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures.

2. The return, which shall relate to a calendar year shall be furnished on or before the 1st February following the year to which the return relates, and the first return shall relate to the year 1935.

3. The return shall be signed (a) by the employer, or where there is more than one employer by any employer, or (b) by any person directly responsible to the employer or employers for the management of the establishment to which it relates.

4. The return shall be furnished:—

- (a) for workmen of all categories except (C) in paragraph 1—
  - (i) in the Punjab—to the Inspector of Factories;

<sup>1</sup> Published under the Government of India, Department of Industries and Labour, Notification No. L.-1189, dated the 28th March 1935.

- (ii) in other provinces—to the Commissioner for Workmen's Compensation for the area within which the said workmen are normally employed unless the Local Government by notification in the local official Gazette specifies any other authority to whom the return shall be furnished;
- (b) for workmen falling in category (C) in paragraph 1—  
to the Secretary to the Railway Board (Railway Department), Government of India.

5. When the local Government or the Railway Board so direct the return shall be furnished in duplicate.

6. Notwithstanding anything herinbefore contained, the aforesaid return is not required to be submitted by any employer in respect of compensation paid on account of injuries suffered by his workmen during any period for which his liability under the Act has been insured with a Mutual Indemnity or other Insurance Company or during which he is a member of an association of employers which deals on behalf of its members with claims for compensation under the Act, if such company or association has with the consent of the local Government undertaken to submit returns as nearly as may be in the form set forth in the Schedule hereto annexed in respect of the employers insured with such company or belonging to such association. Such undertaking shall provide that the said returns shall be submitted not later than the 1st February, or at the discretion of and subject to such conditions as the local Government may impose, the 1st March following the year to which they relate.

## SCHEDULE

## WORKMEN'S COMPENSATION

Returns relating to period from.....to 31st December 19

Province.....  
District.....  
Town or village.....  
Post Office.....  
Name of establishment (1)  
Nature of work (2) .....

(To be omitted in case of railways).

Average numbers (3) employed per day .....  
Adults.....  
Minors.....

Accidents							Occupational diseases (8)						
Number of cases of injuries (4) in respect of which final compensation has been paid during the year			Amount of compensation (5) paid				Number of cases of diseases (4) in respect of which final compensation has been paid during the year			Amount of compensation (5) paid			
	Death	Permanent disablement	Temporary disablement	Death	Permanent disablement	Temporary disablement	Nature of disease (9)	Death	Permanent disablement	Temporary disablement (6)	Death	Permanent disablement	Temporary disablement (7)
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.			
Adults													
Minors													

(Signed).....

Dated.....19

(Designation).....



(1) In cases where more establishments than one are owned by the same employer, a separate return should be furnished for each establishment. When in any establishment the workmen employed fall in two or more of the distinct categories to which the return relates, [e.g., in the case of a tea estate categories A and B (v)] a separate sheet should be used for the statistics of each category.

(2) Enter the class of establishment according to the process or product, e.g., cotton weaving and spinning factory, coal mine.

(3) Include all employees whether permanent or temporary who would, in the case of accidents, be eligible for compensation under the Act and for whom a return is required to be furnished. Numbers employed should be shown even if there are no payments of compensation to report.

(4) Include only those cases in which the *final* payment of compensation was made during the year. A deposit with the Commissioner should be treated as a payment by the employer.

(5) Include all compensation paid in respect of the cases mentioned in footnote 4, whether such compensation was paid during the year or previous to its commencement. Exclude all payments in cases in which the final payment had not been made by the end of the year to which the return relates.

(6) Only such disablements as last for more than seven days should be shown [section 4 (1) D of the Act].

(7) Where the benefit actually allowed (e.g., hospital leave on full pay) is in excess of the compensation admissible under the Act, only the amount of the compensation so admissible should be entered in the return.

(8) *Viz*, anthrax, lead poisoning, phosphorus poisoning, mercury poisoning, benzene poisoning, chrome ulceration and compressed air illness only.

(9) Enter separately each of the diseases specified in foot-note (8) which resulted in cases in respect of which compensation was paid.

## INDIAN FATAL ACCIDENTS ACT, 1855 (XIII OF 1855)<sup>1</sup>

### Statement of Objects and Reasons<sup>1</sup>

Under the English common law a suit for damages for a personal injury can only be brought by the person injured. If he dies as a result of the injury the right to sue does not pass on to his heirs or legal representatives. This principle is known as *actio personalis moritur cum persona* ("a personal action dies with the person injured").

The application of this rule resulted in much hardship to the dependants of poor persons dying as a result of accidents and was therefore modified in England by the Fatal Accidents Act of 1846 and several later statutes. The Indian Act of 1855 is based on the English Act and enables certain heirs of the deceased person to sue for damages when death is caused by an actionable wrong.

## INDIAN FATAL ACCIDENTS ACT, 1855 (XIII OF 1855)

### Arrangement of Sections

#### PREAMBLE

1. Short title and extent.

1A. Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

2. Not more than one suit to be brought. Claim for loss to the estate may be added.

3. Plaintiff shall deliver particulars, etc.

4. Interpretation clause.

<sup>1</sup> Gazette of India, 1854, Part V, page 350.

## INDIAN FATAL ACCIDENTS ACT, 1855 (XIII OF 1855)<sup>1</sup>

*An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.*

[27th March, 1855.]

**Preamble.**—Whereas no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows:—

<sup>2</sup> [1. Short title and extent—(1) This Act may be called the Indian Fatal Accidents Act, 1855.

(2) It extends to the whole of India except the State of Jammu and Kashmir.]

<sup>2</sup>[1A.] **Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.**—Whenever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

\* \* \* Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

**2. Not more than one suit to be brought. Claim for loss to the estate may be added.**—Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint; \* \* \* \* \* provided that in any such action or suit the executor, administrator or representative of the deceased may insert a claim for, and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

**3. Plaintiff shall deliver particulars, etc.**—The plaintiff in any such action or suit shall give a full particular of the person or persons for whom, or on whose

<sup>1</sup> Short title, "The Indian Fatal Accidents Act, 1855." See the Indian Short Titles Act, 1897 (14 of 1897). The Act is based on the Fatal Accidents Act, 1846 (9 & 10 Vict., c. 93). For Statement of Objects and Reasons, see Gazette of India, 1854, Part V, page 350, see also page 1006 ante.

<sup>2</sup> Section 1 was renumbered as section 1A and section 1 was inserted by the Part B States (Laws) Act, 1951, (3 of 1951).

<sup>3</sup> The words "And it is enacted further, that" were repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>4</sup> The words "and that every such action shall be brought within twelve calendar months after the death of such deceased person," were repealed by the Indian Limitation Act, 1871 (9 of 1871). For limitation, see now the Indian Limitation Act, 1908 (9 of 1908).

behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

**4. Interpretation clause.**—The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say\* \* \* the word “person” shall apply to bodies politic and corporate; and the word “parent” shall include father and mother, and grand-father and grand-mother; and the word “child” shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

## **EMPLOYERS’ LIABILITY ACT, 1938 (XXIV OF 1938)**

### **Statement of Objects and Reasons<sup>1</sup>**

Under the common law of England, in civil suits for damages for injuries sustained by workmen it is open to the employer to plead—

(1) the doctrine of common employment, by which the employer is not normally liable to pay damages to a workman for an injury resulting from the default of another workman;

(2) the doctrine of assumed risk, by which an employee is presumed to have accepted a risk if it is such that he ought to have known it to be part of the risks of his occupation.

The Royal Commission on Labour regarded both these doctrines as inequitable and recommended by a majority that a measure should be enacted abrogating these defences. Provincial Governments were consulted in 1932 and were almost unanimously in favour of legislation for the purpose. In the meantime judicial decisions in British India while generally agreeing as to the inequity of the doctrines have been such as to leave it open to employers in most provinces to have recourse to them. The Bill seeks to abolish these defences in the case of all workmen.

## **EMPLOYERS’ LIABILITY (AMENDMENT) ACT, 1951 (V OF 1951)**

### **Statement of Objects and Reasons<sup>2</sup>**

In suits for compensations for injuries sustained by workmen, it was open to the employer to plead the doctrines of “common employment” and “assumed risk”. By the defence of “common employment”, the employer could plead that he was not liable to pay damages to a workman for injuries resulting from the default of a fellow workman. By the defence of “assumed risk”, he could plead that the workman was presumed to have accepted the risk if it was such that he ought to have known it as part of the risks of his occupation. The Royal Commission on Labour in India regarded both these doctrines as inequitable and accordingly, on their recommendation, the Employers’ Liability Act 1938, was enacted debarring employers from putting forward these pleas. It was hitherto assumed that the defence of “common employment” was barred under Section 3(d) of the Act. But, in a recent case, the Privy Council has held that the scope of Section 3(d) is still limited and that the defence of “common employment” is still available to the employer. The decision of the Privy Council is due mainly to ambiguity in the language of clause (d). The Bill seeks to remove that defect.

## **EMPLOYERS’ LIABILITY ACT, 1938 (XXIV OF 1938)**

### **Arrangement of Sections**

1. Short title and extent.
2. Definitions.
3. Defence of common employment barred in certain cases.
- 3A. Contracting out.
4. Risk not to be deemed to have been assumed without full knowledge.
5. Saving.

<sup>1</sup> Certain words were repealed by Sch. II of the Repealing and Amending Act, 1914 (10 of 1914).

<sup>2</sup> Gazette of India, 1938, Part V, page 286.

<sup>3</sup> Gazette of India, 1950, Part II—Section 2, page 358.

## EMPLOYERS' LIABILITY ACT, 1938 (XXIV OF 1938)<sup>1</sup>

*An Act to declare that certain defences shall not be raised in suits for damages \*\* \* \* \* in respect of injuries sustained by workmen.*

[24th September, 1938.]

Whereas it is expedient to declare that certain defences shall not be raised in suits for damages \*\* \* \* \* in respect of injuries sustained by workmen: It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Employers' Liability Act, 1938.

(2) It extends to <sup>3</sup>[the whole of India <sup>4</sup>[except the State of Jammu and Kashmir.]]

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) "workman" means any person who has entered into, or works under a contract of, service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, oral or in writing; and

(b) "employer" includes any body of persons whether incorporated or not, any managing agent of an employer, and the legal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him.

**3. Defence of common employment barred in certain cases.**—Where personal injury is caused to a workman—

(a) by reason of the omission of the employer to maintain in good and safe condition any way, works, machinery or plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition; or

(b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or

(c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or

<sup>5</sup>[(d) by reason of the act or omission of any person in the service of the employer done or made—

(i) in the normal performance of the duties of that person; or

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1938, Part V, page 286; see also page 1008 ante.

<sup>2</sup> The words "in the Provinces" were omitted by the Adaptation of Laws Order, 1950.

<sup>3</sup> Substituted, *ibid.*, for "all the Provinces of India".

<sup>4</sup> Subs. by Part B States (Laws) Act, 1951 (3 of 1951), for "except Part B States".

<sup>5</sup> Substituted by the Employers' Liability (Amendment) Act, 1951 (5 of 1951), s. 2.

- (ii) in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved); or
- (iii) in obedience to particular instructions given by any other person to whom the employer has delegated authority in that behalf;]

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of, the employer.

**\*[3A. Contracting out.**—Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.]

**4. Risk not to be deemed to have been assumed without full knowledge.**—In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

**5. Saving.**—Nothing in this Act shall affect the validity of any decree or order of a Civil Court passed before the commencement of this Act in any such suit for damages.

## MATERNITY BENEFIT LEGISLATION

### International Conventions on Maternity Protection

The Childbirth Convention No. 3 adopted by the International Labour Conference in its First Session held in Washington in 1919 provides for 12 weeks maternity leave for women employed in industrial and commercial undertakings, optional for 6 weeks before and compulsory for 6 weeks after childbirth, income security during that span of time, free medical care and rest intervals for nursing mothers. The Conference also adopted a revised Convention No. 103 and a Recommendation No. 95 concerning Maternity Protection in its 35th Session held at Geneva in 1952 prescribing provisions for cash and medical benefits during the minimum period of maternity leave of 12 weeks and covering industrial, non-industrial and agricultural occupations as well as women working at home.

### Non-official Attempt for Maternity Protection Legislation

In 1924, late Sri N. M. Joshi introduced a Bill<sup>1</sup> in the Legislative Assembly to prohibit the employment of women in factories, mines and tea estates immediately before and after confinement and also to make provisions for maternity allowance by Local Governments from a maternity fund subscribed by the employers. The Bill was rejected by the Assembly as the Government of India thought that the time was not sufficiently ripe for such a measure.<sup>2</sup>

### State Legislations on Maternity Benefit

Though the Central Government did not take any step in enacting maternity benefit legislation, maternity protection for women workers in India is afforded

<sup>\*</sup> Inserted by the Employers' Liability (Amendment) Act, 1951 (5 of 1951), s. 3.

<sup>1</sup> For the Statement of Objects and Reasons of the Maternity Benefit Bill No. 31 of 1924, see Gazette of India, 1924, Part V, page 145.

<sup>2</sup> The State and Industry by A. G. Clow, page 163.

by legislative enactments by various State Governments. Bombay took the lead in 1929 by enacting legislation for regulating the employment of women in factories sometime before confinement and for providing for payment of maternity benefit to them. Madhya Pradesh immediately followed the lead given by Bombay in the matter by enacting similar law in 1930.

The Royal Commission on Labour in India appointed in 1931 examined the Bombay and Madhya Pradesh maternity benefit legislations and recommended enactment of maternity benefit legislation all over India on similar lines. The Commission suggested that the rate of benefit given by the Madhya Pradesh Act was suitable for general application and recommended that in the event of adoption of any general scheme of social insurance, maternity benefit should be incorporated in the said scheme and the cost should be shared by the State, employers and workers.

Maternity Benefit Acts were subsequently passed in various Part A States—in Madras in 1934, Uttar Pradesh in 1938, Bengal in 1939, the Punjab in 1943, Assam in 1944, Bihar in 1945 and Orissa in 1953. The Bihar Act was re-enacted with certain changes in 1947 and was amended in 1953. The Assam Act was amended in August 1951, to increase the rate of benefit payable to women employed in plantations. The Punjab Act was amended in 1952 and 1953. Maternity protection was extended to plantation workers in West Bengal by the Bengal Maternity Benefit (Tea Estates) Act, 1948 which was amended in 1950 prohibiting woman worker from accepting any employment during six weeks after childbirth when she gets maternity benefit. The Madras Act now applies to the new State of Andhra.

In Part B States, similar legislations were enacted in Mysore in 1937, Hyderabad in 1940, Travancore-Cochin in 1952 and Rajasthan in 1953 and in Madhya Bharat in 1951. The Bombay Act was adopted in Saurashtra in 1948.

In Part C States, the Bombay Act with certain modifications was extended to Ajmer in 1932 and in Delhi in 1937. Legislative measure was undertaken in Bhopal in 1943.

At present all Part A States and most of Part B States have adopted legislative measures on the subject while some Part B States and Part C States have extended the Acts of other States to their respective territories.

### **Scope, Qualifying Conditions, Period & Rates of Benefit under the State Acts**

The scope, qualifying conditions, period and rate of maternity benefit vary considerably under the different State Acts. While Assam, Bombay, Bhopal, Hyderabad, Mysore, Madhya Pradesh, Travancore-Cochin Acts apply to women employed in all regulated factories, the scope of other State Acts is generally applicable to women employed in non-seasonal factories only. The period of leave during which maternity benefit is available varies from 7 weeks in Madras to 12 weeks in Hyderabad, Travancore-Cochin, and plantation workers in Assam and West Bengal. Some Acts provide for 8 weeks. The qualifying period of service also varies. It is 150 days in Assam, Travancore-Cochin and plantation workers in West Bengal, 240 days in Madras, 6 months in Bihar, Uttar Pradesh and 9 months generally in other Acts. The rate of cash benefit is also different. The rate of benefit in Bihar, Uttar Pradesh and West Bengal is average daily earnings or annas 8, whichever is greater while in Madhya Pradesh, Bombay and Mysore, the rate of benefit is average daily earnings or annas 8, whichever is less. In Punjab the rate is annas 12 per day or the average daily earnings whichever is higher and in Hyderabad the rate is annas 12 per day. The rate is Rs. 5/4/- per week in Travancore-Cochin and for plantation workers in West Bengal. Apart from the payment of cash benefits some Acts have made provisions for additional benefits also. Most of the Acts contain provisions for

protection against dismissal during maternity leave. Employment of women during maternity leave is a penal offence and a woman found employed during a benefit period is deprived of her statutory benefits.

### **Administration of the State Acts**

The administration of the Acts in all the States is the responsibility of the Factory Inspectorate. Rules framed under the Acts require employers to furnish annual returns, the number of claims made, the number of claims paid and the total amount of benefit paid during the year. Bombay Government has appointed a Woman Inspector for the purpose.

The Labour Investigation Committee found that the Maternity Benefit Acts were not properly observed or enforced especially in the smaller concerns.

### **Mines Maternity Benefit Act, 1941 (XIX of 1941)**

The question of extending the maternity benefits to women employed in mines was discussed at the Second Conference of Labour Ministers held in January 1941 and as a result of the discussions the Central Government enacted the Mines Maternity Benefit Act in 1941 (XIX of 1941) extending maternity benefit to women employed in mines. The Act which came into force on 28th December 1942, is the first instance of a Central measure dealing with maternity benefit. The Act prohibits the employment of women workers in mines during four weeks following the day of delivery of a child and provides for payment of maternity benefit at the rate of one half rupee per day for a period up to four weeks of absence before and four weeks after delivery. It provides for a period of one month of authorised absence or leave before confinement. The qualifying period entitling a woman to claim maternity benefit is six months' service preceding the day of delivery. The Act provides for bonus in addition to maternity benefit if the woman has been attended by a qualified midwife at the time of delivery.

### **Mines Maternity Benefit (Amendment) Acts of 1943 and 1945**

The Act was amended in 1943 (XVIII of 1943) to clarify the meaning of section 5 of the Act. The Act was further amended in 1945 (X of 1945) to afford greater protection to the women working underground in mines. The Amending Act extends the prohibition from four weeks to twenty-six weeks after confinement in such case. During the period of ten weeks following the twenty-six weeks, underground employment is permissible for more than four hours a day if a creche is provided in the mine but for not more than four hours at any one time. The employer had to pay to the woman who had worked underground in mine for not less than 90 days in all during a period not exceeding 6 months immediately preceding the date on which the mine owner or manager was informed that she was likely to be delivered of a child within ten weeks, maternity benefit at the rate of Rs. 6/- a week for ten weeks immediately preceding and six weeks following her delivery. The rate of benefit has been increased from 8 annas to 12 annas a day in her case and women doctors have to be provided for such purpose.

### **Administration of the Central Act**

The Act is administered by the Coal Mines Welfare Commissioner so far as coal mines are concerned. In other mines, its enforcement is the responsibility of the Chief Inspector of Mines.

### **Mines Maternity Benefit Rules, 1943**

Under the Mines Maternity Benefit Rules 1943, the qualifications to be possessed by the midwife or trained person are to be determined by the State Governments.

Dismissal on the ground of pregnancy is prohibited. Owner or manager of a mine contravening any provision is liable to a fine of Rs. 500/- and a complaint has to be lodged within six months of the date of the alleged offence.

### **Five-Year Labour Programme of the Central Government**

The maternity benefit legislation in India is neither uniform nor universal and there is no provision of free medical aid before, during and after confinement. Under the Five-Year Labour Programme, the Central Government proposed to enact a Central legislation to secure for workers other than those working in factories, the extended scale of benefits provided under the Health Insurance Scheme.

### **Maternity Benefit under the Employees' State Insurance Act**

The Act provides for payment of maternity benefit at annas 12 per day or 50% of the assumed average wages whichever is higher and further provides for maternity leave for 12 weeks and medical benefits during this period. With the full implementation of the Act in all the States, the various State Maternity Benefit Acts will be superseded and there will be an uniformity in the legislative provisions regarding maternity benefits.

### **Maternity Benefit under the Plantation Labour Act**

The Act provides for payment of maternity allowance to a woman in case of confinement or expected confinement. The rate, period of benefit, qualifying conditions, etc., are to be prescribed by rules framed by the State Governments.

### **Revised I.L.O. Convention on Maternity Protection**

The International Labour Conference at its 35th Session held at Geneva in 1952 adopted a revised Convention No. 103 as well as a Recommendation No. 95 concerning Maternity Protection. The Convention covers industrial, non-industrial and agricultural occupations as well as women working at home and prescribes provisions for cash and medical benefits during maternity leave of 12 weeks (minimum). The Recommendation provides for longer leave, cash benefits equivalent to previous earnings, medical benefits on a higher scale, provision for facilities for nursing mothers and protection of health and employment of expectant and nursing mothers.

### **Uniformity in Maternity Benefit Legislation**

The question of considering uniformity in legislation relating to maternity benefit keeping in view the I.L.O. Conventions and Recommendations, was discussed in the Thirteenth Session of the Indian Labour Conference held in Mysore in January, 1954. The Central Labour Minister explained that there were two basic questions relating to this subject—whether there should be a Central legislation on minimum uniform standards for maternity benefit or whether action would be taken for setting up a uniform standard for all States. There was considerable divergence of opinion in all groups.

### **Model Minimum Standards for Maternity Benefit Legislation**

The Government of India have finalised the Model Minimum Standards for Maternity Benefit Legislation after considering the comments received and keeping in view the provisions of the I.L.O. Conventions and Recommendations and the existing State Maternity Benefit Acts and the Central Acts covering maternity benefits, viz., the Mines Maternity Benefit Act, 1941, the Employees' State Insu-



rance Act, 1948 and the Plantation Labour Act, 1951 and have recommended to the State Governments that these Standards may be adopted either by enactment of fresh legislations or by revision of existing legislations where necessary. The Central Government have pointed out that these Model Standards aim to achieve uniformity and a desirable standard by striking a balance of the existing legislative provisions.

## **MINES MATERNITY BENEFIT ACT, 1941 (XIX OF 1941)**

### **Statement of Objects and Reasons<sup>1</sup>**

Many Provinces have legislation providing for the payment of maternity benefits by employers to women workers employed in factories. This Bill provides, on the lines of the existing Provincial legislation covering factories, for prohibition from employment in mines of a woman worker during the four weeks following the day on which she is delivered of a child, and for the payment to her of maternity benefit at annas eight per day upto four weeks of absence before delivery and four weeks after delivery.

### **1. AMENDING ACT OF 1943 (XVIII OF 1943)**

#### **Statement of Objects and Reasons<sup>2</sup>**

In section 5 of the Mines Maternity Benefit Act, 1941, the period preceding the delivery, for which a woman is entitled to maternity benefit is defined to be "every day on which she is absent from work owing to her confinement during the four weeks immediately preceding and including the day of her delivery." It has been brought to notice that the words "absent from work owing to her confinement" would not apply in respect of a day on which the mine is closed. The intention of the Government was that the woman should receive maternity benefit for every day, except on days on which she attends work and receive payment therefor, during the period referred to. This Bill seeks to give clear effect to this intention and remove the existing doubtful position.

### **2. AMENDING ACT OF 1945 (X OF 1945)**

#### **Statement of Objects and Reasons<sup>3</sup>**

The Bill is intended to prohibit the employment of women below ground in mines when in an advanced stage of pregnancy and to grant maternity benefit to those women workers who are so prohibited.

In 1943 a great shortage of labour for employment in coal mines became noticeable, and the coal raisings were seriously affected to the serious detriment of the war effort of the country. It therefore became necessary temporarily to remove the ban on the employment of women below ground in coal mines in the major coal areas. The measure is of a purely emergent and temporary nature and the ban will be reimposed as soon as conditions permit. Employers are already prohibited from employing in mines women for 4 weeks after delivery and the women are entitled to benefit for 4 weeks before and after delivery. The removal of the ban on the employment of women below ground makes it necessary to extend the period of prohibition in case of women working under ground and to arrange for payment of benefit over a longer period. The Bill therefore proposes to prohibit the employment of women below ground for a period of 10 weeks before confinement as an addition to the present prohibition of employment for four weeks after confinement and to make the women eligible for benefit for a period of ten weeks before expected date of confinement. It is also considered necessary to have powers to vest any specified official with the powers at present exercised by the Chief Inspector of Mines and the Inspector of Mines only under the Mines Maternity Benefit Act, 1941. The Bill is intended to provide for this also.

<sup>1</sup> Gazette of India, 1941, Part V, Page 139.

<sup>2</sup> Gazette of India, 1943, Part V, pages 163-164.

<sup>3</sup> Gazette of India, 1945, Part V, page 46.

# MINES MATERNITY BENEFIT ACT, 1941 (XIX OF 1941)

## Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition of employment of, and work by women during certain period.
4. Right to obtain leave of absence in pregnancy and after delivery.
5. Right to and liability for payment of maternity benefit.
6. Payment of bonus.
7. Notice of delivery to be given to manager.
8. Payment of maternity benefit.
9. Disposal of maternity benefit in case of death of woman entitled to receive it.
10. Prohibition of dismissal during or on account of absence from work owing to confinement.
11. Power of Chief Inspector or Inspector to direct payments to be made.
12. Penalty for contravention of Act by a woman.
13. Penalty for contravention of Act by owner or manager.
14. Cognizance of cases.
15. Power of Central Government to make rules.
16. Abstract of this Act and the rules made thereunder to be exhibited in mines.
17. Power of Central Government to exempt mines from operation of Act.
18. Act binding on Government.

## MINES MATERNITY BENEFIT ACT, 1941 (XIX OF 1941)<sup>1</sup>

*An Act to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them.*

[26th November, 1941.]

Whereas it is expedient to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them:

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Mines Maternity Benefit Act, 1941.

(2) It extends to <sup>2</sup>[the whole of India except Part B States.]

(3) It shall come into force on such <sup>3</sup>date as the Central Government may, by notification in the official Gazette, appoint.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “child” includes a still-born child;

(b) “Chief Inspector”, “Inspector”, “employed”, “mine” and “owner” have the meanings assigned, respectively, to these expressions in section 3 of the Indian Mines Act, 1923 (IV of 1923);

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 139; see also p. 1014 ante.

The Act has been applied to—(1) Partially excluded areas in the Province of Orissa, see Orissa Notification No. 1005-111-C-244-Com., dated 4th March 1944; (2) Darjeeling district with effect from 14th June, 1945, see Bengal Notification No. 2335-Com., dated 8th June 1945.

<sup>2</sup> Substituted by the Adaptation of Laws Order, 1950.

<sup>3</sup> Brought into force with effect from the 28th December 1942, vide Gazette of India, 1943, Pt. 1, p. 32.

- (c) "manager" means the manager of the mine appointed in accordance with the provisions of the Indian Mines Act, 1923 (IV of 1923);
- (d) "maternity benefit" means the payment referred to in section 5;
- (e) "prescribed" means prescribed by rules made under this Act.

**3. Prohibition of employment of, and work by women during certain period.—**

- <sup>4</sup>[(1)] No owner or manager of a mine shall knowingly employ a woman and no woman shall engage in employment in any mine during the four weeks following the day on which she is delivered of a child.
- <sup>4</sup>[(2)] No owner or manager of a mine shall employ any woman below ground in the mine—
  - (a) if he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;
  - (b) if she has to the knowledge of the management been delivered of a child within the preceding twenty-six weeks;
  - (c) during the period of ten weeks following the twenty-six weeks referred to in clause (b)—
    - (i) for more than four hours in a day unless a *creche* is provided at the mine;
    - (ii) in any case, for more than four hours at any one time:

Provided that where the woman informs the management that the child of which she was delivered has died, the provisions of clause (c) shall not apply after the management has with due diligence verified the correctness of her statement.]

**4. Right to obtain leave of absence in pregnancy and after delivery.—**(1) If any woman employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within one month from the date of such notice, the manager shall permit her if she so desires to absent herself from work up to the day of her delivery and such absence shall be treated as a period of authorised absence on leave:

Provided that <sup>5</sup>[except in the case of a woman employed below ground in the mine] the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one month he may refuse such permission.

<sup>6</sup>[(2) If any woman employed below ground in a mine gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within ten weeks from the date of such notice, the manager may, on undertaking to defray the cost of such examination, require the woman to be examined within three days by a qualified medical practitioner or midwife, and shall permit her if she so desires to absent herself from work in any capacity in the mine prior to the said examination, and unless he obtains a certificate that the woman is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination, up to the day of her delivery, and such absence shall be treated as a period of authorised absence on leave.

<sup>4</sup> Section 3 was re-numbered as sub-section (1) and sub-section (2) added by s. 2 of Act 10 of 1945.

<sup>5</sup> Inserted by s. 3 of Act 10 of 1945.

<sup>6</sup> Substituted for original sub-section (2), *ibid.*

(3) The examination referred to in the proviso to sub-section (1) or in sub-section (2) shall, if the woman so desires, be carried out by a woman.

(4) The absence of a woman in the period during which she is entitled to maternity benefit under this Act shall be treated as authorised absence on leave.]

**5. Right to and liability for payment of maternity benefit.**—<sup>7</sup>[(1)] Every woman <sup>8</sup>[other than a woman to whom the provisions of sub-section (2) apply] employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of <sup>9</sup>[twelve annas] a day for every day <sup>10</sup>\* \* \* during the four weeks immediately preceding and including the day of her delivery and for each day of the four weeks following her delivery:

<sup>11</sup>[Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the four weeks preceding her delivery.]

<sup>7</sup>[(2) Every woman who has worked below ground in a mine or mines of the same owner for not less than ninety days in all during a period not exceeding six months immediately preceding the date on which clause (a) of sub-section (2) of section 3 becomes applicable to her case shall, if she complies with the other conditions imposed by this Act, be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of six rupees a week for the ten weeks immediately preceding her delivery and for the six weeks following her delivery.]

*Explanation.*—Periods of casual absence as defined by rules made under section 15 or authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous.

**6. Payment of bonus.**—(1) The Central Government may by rules made under section 15 provide that a woman entitled to maternity benefit under this Act shall, if at the time of her delivery she utilized the services of a qualified midwife or other trained person, receive in addition to the maternity benefit due to her a bonus not exceeding in amount three rupees:

Provided that she shall not receive such bonus if at the place chosen by her for her confinement she would have been entitled free of charge to the services of a qualified midwife or other trained person provided by the owner of the mine.

(2) Such rules may further provide for the determination by the <sup>12</sup>[State] Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section.

**7. Notice of delivery to be given to manager.**—A woman entitled to maternity benefit under this Act, unless she has given the notice referred to in sub-section (1) <sup>13</sup>[or sub-section (2) as the case may be,] of section 4, shall on being delivered of a child give notice of her delivery in the prescribed manner to the

<sup>7</sup> Section 5 was re-numbered as sub-section (1) and sub-section (2) added by s. 4 of Act 10 of 1945.

<sup>8</sup> Inserted, *ibid.*

<sup>9</sup> Substituted, *ibid.*

<sup>10</sup> Certain words omitted by s. 2 of Act 18 of 1943.

<sup>11</sup> Added, *ibid.*

<sup>12</sup> Substituted by the Adaptation of Laws Order, 1950.

<sup>13</sup> Inserted by s. 5 of Act 10 of 1945.

manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the manager both of her delivery and of the date of her delivery:

Provided that a woman giving notice under section 4 or this section may therein nominate a person for the purposes of sub-section (2) of section 9.

**8. Payment of maternity benefit.**—(1) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (1) of section 4 and has obtained permission to absent herself from work up to the date of her delivery, the manager shall either at once or within three days pay to her maternity benefit for four weeks in advance.

<sup>14</sup>[(1A) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (2) of section 4, the manager shall within three days pay to her maternity benefit for ten weeks in advance, unless, within the said three days as a result of the examination referred to in that sub-section, he obtains a certificate that she is not pregnant or not likely to be delivered of a child within ten weeks or the woman refuses to submit to such examination.]

(2) A woman entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 7—

(a) if she has received an advance payment under sub-section (1) <sup>14</sup>[or sub-section (1A)], be paid the balance of the maternity benefit due to her at the end of the fourth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later;

(b) if she has received no such advance payment,—

(i) if the proof is furnished, before the end of the fourth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said fourth week;

(ii) if the proof is furnished after the end of the fourth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

**9. Disposal of maternity benefit in case of death of a woman entitled to receive it.**—(1) If a woman entitled to maternity benefit who has received an advance under sub-section (1) <sup>15</sup>[or sub-section (1A)] of section 8 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a woman entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) <sup>15</sup>[or sub-section (1A)] of section 8 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth and date of the birth of child and of the death and date of death of the woman being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person who undertakes the care of the child, and if the child is not living to the person nominated by her under the proviso to section 7 or if she has made no such nomination to the legal representative of the deceased woman.

**10. Prohibition of dismissal during or on account of absence from work owing to confinement.**—(1) When a woman absents herself from work in accordance with <sup>16</sup>[sub-section (1) of section 3 or in circumstances under which in accordance with this Act the absence is to be treated as authorised absence on

<sup>14</sup> Inserted by s. 6, of Act 10 of 1945.

<sup>15</sup> Inserted by s. 7, *ibid.*

<sup>16</sup> Substituted by s. 8, *ibid.*

leave], it shall be unlawful for the manager to dismiss her during or on account of such absence or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before, she is delivered of a child, if the woman but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

**11. Power of Chief Inspector or Inspector to direct payments to be made.—**

(1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 9 is improperly withheld may make a complaint to the Chief Inspector or any Inspector <sup>18</sup>[or any other officer authorised in this behalf by the Central Government].

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector <sup>17</sup>[or other officer] may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

**12. Penalty for contravention of Act by a woman.—**Any woman who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work, or who engages in employment in any mine in contravention of <sup>18</sup>[sub-section (1) of section 3], shall be punishable with fine which may extend to ten rupees, and, if she is entitled to maternity benefit under this Act, shall forfeit her right to any maternity benefit not already paid to her.

**13. Penalty for contravention of Act by owner or manager.—**(1) Any owner or manager of a mine, who contravenes any provision of this Act, for which no express penalty is provided, shall be punishable with fine which may extend to five hundred rupees.

(2) The Court imposing the fine may, if the contravention has resulted in depriving a woman of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the woman for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and an Appellate Court or the High Court in exercise of its powers of revision may also make such order.

**14. Cognizance of cases.—**(1) No prosecution under this Act shall be instituted except by or with the sanction of the Chief Inspector <sup>19</sup>[or of an officer authorised in this behalf by the Central Government].

(2) No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made thereunder.

(3) No Court shall take cognizance of an offence punishable under this Act or any rule made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that in computing the said period of six months any time spent in obtaining the sanction <sup>20</sup>\* \* \* required by sub-section (1) shall be excluded.

<sup>17</sup> Inserted by s. 9 of Act 10 of 1945.

<sup>18</sup> Substituted by s. 10, *ibid.*

<sup>19</sup> Added by s. 11, *ibid.*

<sup>20</sup> Certain words omitted, *ibid.*

**15. Power of Central Government to make rules.**—(1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) require the maintenance of registers and records for the purposes of this Act and prescribe the form thereof;
- (b) prescribe the form of the notices referred to in section 4 and section 7, and require mines to supply copies thereof to women workers,
- (c) regulate the examination of women <sup>21</sup>[referred to in] section 4, and the grant of the certificates therein referred to;
- (d) prescribe the nature of and the method of furnishing the proof referred to in section 7, section 8 and section 9;
- (e) regulate the manner of applying for and paying maternity benefit;
- (f) assign duties to, and regulate the powers of the Chief Inspector and Inspectors, <sup>22</sup>[and the officers authorised by the Central Government referred to in section 11 and sub-section (1) of section 14] for the purposes of this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

**16. Abstract of this Act and the rules made thereunder to be exhibited in mines.**—(1) The manager of every mine in which women are employed shall cause an abstract in the local Indian language of the provisions of this Act and of the rules made thereunder to be exhibited in the mine in such manner that they may come to the notice of every woman employed in the mine.

(2) For any contravention of the provisions of this section the manager shall be punishable with fine which may extend to one hundred rupees.

**17. Power of Central Government to exempt mines from operation of Act.**—The Central Government may, by notification in the official Gazette, exempt any mine or class of mines from the operation of this Act.

**18. Act binding on Government.**—The provisions of this Act shall be binding on the <sup>23</sup>[Government].

## MINES MATERNITY BENEFIT RULES, 1943

### Arrangement of Paragraphs

- 1. Short title.
  - 2. Definitions.
  - 3. Muster Roll.
  - 4. Form of notice under section 4.
  - 5. Form of notice under section 7.
  - 6. Supply of forms.
  - 7. Medical examination.
  - 8. Casual absence.
  - 9. Proof.
  - 10. Payment of Maternity Benefit.
  - 11. Records.
  - 12. Bonus.
  - 13. Duties and Powers of the competent Authority.
  - 14. Penalty.
  - 15. Annual returns.
- FORMS

<sup>21</sup> Substituted by s. 12 by Act 10 of 1945.

<sup>22</sup> Inserted, *ibid.*

<sup>23</sup> Substituted by the Adaptation of Laws Order, 1950.

## MINES MATERNITY BENEFIT RULES, 1943<sup>1</sup>

In exercise of the powers conferred by section 6 and section 15 of the Mines Maternity Benefit Act, 1941 (XIX of 1941), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 15 of the said Act, namely:—

### MINES MATERNITY BENEFIT RULES, 1943

1. **Short title.**—(1) These rules may be called the Mines Maternity Benefit Rules, 1943.
- (2) They extend to the whole of India except the State of Jammu and Kashmir.
2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—
  - (a) "the Act" means the Mines Maternity Benefit Act, 1941 (XIX of 1941);
  - (b) "Form" means a form appended to these rules;
  - (c) "muster roll" means a muster roll maintained under Rule 3;
  - (d) "Section" means a section of the Act;
  - (e) "Inspector" means an Inspector as defined in section 2 of the Act, and includes an officer authorised for the purpose of Section 11 or sub-section (1) of Section 14 of the Act by the Central Government.
  - <sup>2</sup>(f) "Competent Authority" means in respect of a coal mine, the Coal Mines Labour Welfare Commissioner, and in respect of any other mine, the Chief Inspector of Mines].

3. **Muster Roll.**—(1) Every owner or manager of a mine in which women are employed shall prepare and maintain a muster roll and shall enter the following particulars in such muster roll namely:—

- (a) Name of mine;
- (b) Name of woman and her father's (or, if married, husband's) name;
- (c) Nature of work;
- (d) dates with month and year in which she is employed and not employed;
- (e) date on which the woman gives notice under section 4;
- (f) date of production of a medical certificate under the said section;
- (g) date of birth of child;
- (h) date on which the woman gives notice, if any, under section 7;
- (i) date of production of proof of birth;
- (j) date of production, if any of proof of death of a woman worker;
- (k) date with the amount of payment of first instalment of maternity benefit;
- (l) date with the amount of payment of subsequent instalment of maternity benefit;
- (m) date of payment of bonus, if any under Rule 12;
- (n) if the woman dies, the name of the person to whom maternity benefit was paid, the amount thereof, and the date of payment;
- (o) name of the person nominated by the woman under the proviso to section 7;
- (p) remarks column for the use of the Inspector.

(2) All entries in the muster roll shall be made in ink and maintained up to date, and the Inspector may inspect it on the premises at any time during the working time of the mine.

(3) The employer may enter in the muster roll such other particulars as he may wish for any other purpose.

4. **Form of notice under section 4.**—The written notice referred to in section 4 shall be in Form "A".

5. **Form of notice under section 7.**—The notice referred to in section 7 shall be in Form B.

6. **Supply of forms.**—The Manager shall supply to the woman, at her request, free of cost, copies of Forms A and B.

7. **Medical Examination.**—(1) The certificate referred to in section 4 shall be in Form D.

(2) Medical practitioners and midwives referred to in these rules shall have qualifications not less than those qualified to assist at delivery for the purposes of section 6.

<sup>1</sup> These Rules were published under the Department of Labour Notification No. 1285 dated the 7th January, 1943.

<sup>2</sup> Inserted by the Ministry of Labour Notification No. S.R.O. 1188 dated the 15th June, 1953.



**8. Casual absence.**—For purpose of explanation to section 5, absence from employment up to a maximum period of 26 days during the six months preceding the date of delivery shall be treated as casual leave.

**9. Proof.**—The fact that a woman has been confined or is dead shall be proved by the production either of a certificate to that effect from a qualified medical practitioner or a certified copy of an extract from a birth and death register maintained under the provisions of any law.

**10. Payment of Maternity Benefit.**—(1) Payment against a claim of maternity benefit shall be made by the manager to the woman concerned, or to a person nominated by her in writing, or in the case of her death to the person entitled to it under sub-section (2) of section 9.

In case of doubt the amount may be paid by the manager to the Chief Inspector who shall pay it to the person, who, in his opinion, is entitled to receive it.

(2) Whenever the payment referred to in sub-rule (1) is made, a receipt shall be obtained by the manager from the person to whom the payment is made in Form C. Where the amount has been paid to the Chief Inspector, the receipt shall be supplied to the manager by the Chief Inspector.

**11. Records.**—Records relating to the payment of maternity benefit kept under the provisions of the Act or these rules shall be preserved for a period of two years from the date of their preparation.

**12. Bonus.**—(1) Subject to the provisions of sub-section (1) of section 6, a bonus of three rupees shall be paid by the manager to the woman entitled to maternity benefit under the Act.

(2) Application for bonus shall be made by the woman entitled to maternity benefit within four weeks immediately following the day of delivery.

(3) The application referred to in sub-rule (2) shall be accompanied by a certificate from the qualified midwife or other trained person declaring that woman employee utilised the services of the midwife or trained person.

(4) The qualifications to be possessed by qualified midwives and other trained persons for the purposes of section 6 shall be determined by the State Government.

**13. Duties and Power of the <sup>3</sup>[Competent Authority] and Inspectors.**—(1) The <sup>3</sup>[Competent Authority] shall have jurisdiction, and shall be responsible for the due administration of the Act and these rules throughout <sup>4</sup>[the territories to which they extend.]

(2) Every Inspector shall be responsible for the due observance of the Act and these rules within the area assigned to him by the Chief Inspector.

(3) The <sup>3</sup>[Competent Authority] and Inspectors shall have power, within their respective jurisdiction:—

(a) to require the production of and to examine, such records as are maintained in the mine under the Act or these rules;

(b) to make such enquiries and to require the production of such papers or documents as may be necessary for the purpose of ascertaining whether the provisions of the Act and of these rules have been or are being properly carried out in any mine; provided that he shall not require any owner or manager to answer any question, or give any evidence, tending to criminate himself.

(4) Every notice given under sub-section (1) of section 4 or under section 7 and every receipt for maternity benefit or bonus paid to any person under the provisions of the Act or of these rules shall, on demand, be produced before the <sup>3</sup>[Competent Authority] or an Inspector.

(5) Without prejudice to the generality of sub-rules (1) and (2), the <sup>3</sup>[Competent Authority] or an Inspector shall at each inspection of a mine see:—

(a) Whether due action has been taken on every notice given under section 4 or sub-section (4) or under section 7;

(b) Whether the muster roll prescribed under Rule 3 is correctly maintained;

(c) Whether there have been any cases of dismissal or notice of dismissal in contravention to section 10 since the last inspection;

(d) Whether section 3 and 8 and sub-section (1) of section 16 have been complied with.

<sup>3</sup> Substituted for the words "Chief Inspector" by the Ministry of Labour Notification No. S.R.O. 1188 dated the 15th June 1953.

<sup>4</sup> Substituted for the words "British India", *ibid.*

(6) An Inspector may issue orders in writing to the owner or manager asking for the correction of all irregularities against the Act or these rules noticed by him.

14. **Penalty.**—Any person who contravenes any of the provisions of Rules 3, 6, 10, 11, 12 and 13 shall, on conviction be punishable with fine which may extend to fifty rupees.

15. **Annual returns.**—(1) The owner of any mine to which the Act applies shall on or before the 21st day of January in each year submit to the <sup>5</sup>[Competent Authority] a return in each of the Forms E, G and H giving information as to the particulars specified in respect of the preceding year.

(2) If the owner of a mine to which the Act applies sells, abandons or discontinues the working of the mine, he shall, within one month of the date of sale or abandonment, or four months of the date of discontinuance, as the case may be, submit to the said <sup>5</sup>[Competent Authority] a further return in each of the said forms in respect of the period between the end of the preceding year and the date of sale, abandonment or discontinuance.

(3) If any person, required by this rule to submit any return fails to do so or submits a return which is incomplete or wrong in materials or in any way calculated to mislead, he shall be liable to a fine which may extend to fifty rupees.

#### FORM A—(See Rule 4)

*Notice under section 4 of the Mines Maternity Benefit Act, 1941.*

Name of owner of mine I, wife/daughter  
of , employed as at mine, hereby  
give notice that I expect to be confined within one month next following from the date of  
this notice and that I will absent myself from the mine with effect from

\*For the purpose of section 9(2), I hereby nominate  
(name and full address of the nominee to be given) to receive maternity benefit due to me  
in case of my death.

Signature or thumb impression.

Signature of an attestor in case the woman is not  
able to sign, and affixes thumb impression.

Address

To

The Manager,

(Name of mine and full postal address)

#### FORM B—(See Rule 5)

*Notice under section 7 of the Mines Maternity Benefit Act, 1941.*

Name of owner of mine I, wife/daughter of ,  
employed as at mine, hereby give notice that I gave birth to a child on  
the (date) .

\* For the purpose of section 9(2), I hereby nominate  
(name and full address of the nominee to be given) to receive maternity benefit due to me  
in case of my death.

Given this day

Signature or thumb impression.

Signature of an attestor in case the woman is not  
able to sign, and affixes thumb impression.

Address

To

The Manager,

(Name of mine and full postal address)

<sup>5</sup> Substituted for the words "Chief Inspector" by the Ministry of Labour Notification  
No. S.R.O. 1188 dated the 15th June, 1953.

\*Strike out where not applicable.

## FORM C—[See Rule 10(2).]

*Form of receipt for maternity benefit*

Name of mine I, the undersigned a \*woman employee/  
the nominee of woman employee/acting on behalf of woman employee/legal  
representative of woman employee deceased in  
(name of mine) at in district received maternity benefit  
under the Mines Maternity Benefit Act, 1941, from the Manager of the mine referred to  
above, as detailed below:—

Rs. , being the first instalment after confinement paid on.....

Rs. , being the second instalment after confinement paid on.....

Rs. , being the bonus under section 6 of the Act paid on.....

\*My/Her confinement

took place on

. In consequence I

her NOMINEE, or acting on her behalf

being her legal representative

have received the aforesaid amounts prescribed in section 5\* (and section 6) of the Mines  
Maternity Benefit Act, 1941.

Signature or thumb impression of woman employee

the nominee or the person working on behalf of the woman employee

the legal representative of the woman employee

Signature of an attester in case of the woman is not able

to sign and affixes thumb impression.

Date.

## FORM D—[See Rule 7(1).]

*Certificate referred to in section 4(1) of the Mines Maternity Benefit Act, 1941*

This is to certify that I examined wife/daughter of a woman employee  
in mine at in the district of on (date) and \*found/can not  
discover that she is pregnant and is expected to be delivered of a child within  
(months and/or days) from the above mentioned date.

Signature, qualification and  
designation of medical  
practitioner or midwife.

FORM E—*Annual Return for the year ending on the 31st December, 19*

1. Name of mine.
2. Situation of the Mine—  
Mauza.  
District.  
Province.  
Nearest Railway station.
3. Date of opening of the mine.
4. Date of closing, if closed.
5. Postal address of mine.
6. Name of owner.  
Postal address of owner.
7. Name of managing agent, if any, postal address of managing agent.
8. Name of agent or representative of owner.  
Postal address of representative of owner.
9. Name of manager.  
Postal address of manager.
10. (a) Name of medical officer attached to the mine.  
(b) Qualification of officer attached to the mine.  
(c) Is he resident at the mine?  
(d) If a part-time employee, how often does he pay visits to the mine?
11. (a) Is there any hospital at the mine?  
(b) If so, how many beds are provided for woman employees?  
(c) Is there a lady doctor?  
(d) If so, what are her qualifications?  
(e) Is there a qualified midwife?  
(f) Has any creche been provided?

Signature of owner.  
Date 19 ,

\*Strike out when not applicable.

# MINES MATERNITY BENEFIT RULES, 1943

FORM 5

FORM F—Employment, dismissal, payment of bonus, etc. of women for the year ending on 31st December, 19

Place of employment.		Aggregate number of daily attendance during the year of women permanently or temporarily employed.	Number of women who worked for a period of not less than six months (section 5(1)).	Number of women who gave notice under section 4.		Number of cases where free medical examination was offered by the manager (proviso to section 4).	Number of cases where the women refused to submit to such examination (proviso to section 4).	Number of cases where the manager refused permission under proviso to section 4.
(1) In open workings On the surface		(2)	(3)	(4)	(5)	(6)	(7)	(8)
Total	...	—	—	—	—	—	—	—
Place of employment.	Number of cases where services of qualified midwife or other trained person were offered by the management free of charge (proviso to section 6(1)).	(9)	(10)	(11)	(12)	(13)	(14)	(15)
In open workings	Number of cases where the manager granted permission to a woman to absent herself from work (section 4).	—	—	—	—	—	—	—
On the surface	Number of cases where the manager granted permission to a woman to absent herself from work (section 4).	—	—	—	—	—	—	—
Total	...	—	—	—	—	—	—	—
	Number of claims for bonus paid (section 6(1)).	—	—	—	—	—	—	—
	Number of claims for bonus rejected.	—	—	—	—	—	—	—
	Number of women dismissed while working.	—	—	—	—	—	—	—
	Number of women who were fined when employed (section 2).	—	—	—	—	—	—	—
	Amount of fine imposed in each case.	—	—	—	—	—	—	—
	Remarks.	—	—	—	—	—	—	—

N.B.—Full particulars of each case and reason for the action taken under headings (8), (13), (14) and (15) should be given in the Appendix below:—

Signature of owner.  
Date 19

## APPENDIX

FORM G—Details of payment made during the year ending 31st December 19 .

Name of person to whom paid.

Amount paid.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
Date of payment.	Woman employee.	Person who undertook the care of the child.	Nominee of the woman	Legal representative of the deceased woman.	Instalments under section 8(1).	Balance of the maternity benefit under section (2).	Under section 9(2).	Under section 6(1).	Number of women workers who absconded after receiving the first instalment of maternity benefit under section 8(1).	Cases where claims were contested in a court of law.	Results of cases.	Remarks.

FORM H—Prosecution during the year ending 31st December 19 .

Place of employment of the woman employee	Number of cases instituted.	Number of cases resulted in conviction	Remarks.
In open workings			
On the surface			

N.B.—Reasons for prosecution should be given in full in the Appendix below:—

Signature of owner.

Date 19

MODEL MINIMUM STANDARDS FOR MATERNITY BENEFIT LEGISLATION<sup>1</sup>

1. **Scope.**—Maternity benefit legislation should, in the first instance, cover all factories, mines and plantations as defined in the Factories Act, 1948, the Mines Act, 1952, and the Plantations Labour Act, 1951, respectively. Provision should however be made to enable the Government concerned to extend the scope of the legislation to other employments, as and when required. The State Governments should, also have the power to exempt (1) seasonal factories, (2) establishments where it will be so difficult to administer these provisions that they are likely to be evaded on large scale, and (3) if the existing benefits are more or less same as provided hereinafter.

2. **Qualifying Period of Service.**—The woman worker concerned should have entered service at least between 35 and 40 weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement, whichever is more advantageous to her.

(1) These Model Minimum Standards for Maternity Benefit Legislation were prepared by the Central Government and forwarded to the State Governments with a recommendation that these may be adopted either by enactment of fresh legislation or by revision of existing laws where necessary.

3. **Period of Benefit.**—The benefit should be payable during a period of 12 weeks of which not more than six shall precede the date of confinement.

4. **Rate of Benefit.**—The minimum rate of benefit payable should be  $\frac{1}{12}$  annas per day or  $\frac{7}{12}$  of the average daily wage, whichever is higher.

5. **Protection of Employment.**—An employer shall not dismiss a woman worker once a notice of pregnancy has been given, except for gross misconduct, when such action will have the effect of depriving her of maternity benefits.

6. **Medical Benefits.**—A medical bonus of Rs. 10/- shall be payable to a woman worker on maternity leave if no pre-natal, confinement and post-natal care is provided by the employer free of charge.

7. **Nursing Breaks.**—There should be provision for reasonably adequate nursing breaks for nursing mothers.

8. **Protection of Health.**—A woman worker should be employed on light work during a period of one month prior to her proceeding on maternity leave.

9. **Miscarriage.**—There should be provision for leave with wages for three weeks from the date of miscarriage.

10. **Protection of Service Rights.**—The service rights of a woman worker would not in any way be prejudiced during her absence on maternity leave.

11. **Additional Leave.**—In addition to maternity leave for a period of 12 weeks there should be a provision for further leave for a maximum period of one month in cases of illness arising out of pregnancy or confinement.

12. **Payment of Benefit on the death of the woman worker.**—Provision regarding payment of benefit on the death of a woman worker should be made.

## SOCIAL INSURANCE LEGISLATION

### Social Insurance in India

Sir William Beveridge in his monumental Report on Social Insurance and Allied Services, has referred to five giants, viz., Want, Disease, Ignorance, Squalor and Unemployment, which should be attacked and killed, on the road to social security. India is afflicted by all these giants more than any other country. Hence the need of social security measures is all the more important in India. Unfortunately the Government did nothing to provide social security measures for the workers until 1948. The question of sickness insurance was examined by the Government of India for the first time in 1928 when the question of ratification of Draft Conventions (24 & 25) and Recommendations adopted at the tenth International Labour Conference in 1927 concerning sickness came up for consideration. The Government came to the conclusion that introduction of the scheme was not practicable in the existing conditions. The question was again brought before the Government when the International Labour Conference at its seventeenth session at Geneva adopted Conventions Nos. 35 to 40 and Recommendation No. 43 in 1933 concerning invalidity, old age and widows' and orphans' insurances; but the Central Government decided not to introduce the schemes on the ground of administrative and financial difficulties.

Social insurance is still in its infant stage of development in India. The principles of social insurance introduced in India were workmen's compensation legislation by the Central Government in 1923 and maternity benefit legislations by various State Governments from 1929. These legislations were merely measures of social assistance and developed out of the doctrine of employer's liability, the employer being responsible for payment of maternity benefits and compensation for employment injuries. The State has so long played the part of a mere legislator and has not so far interested itself in the introduction of social security measures or financial participation in them. Health insurance which is the most important form of social insurance has so long been neglected in India.

### **Benefits provided under the Act**

The Act provides for the following types of benefits to the insured persons or their dependants:—(1) sickness benefit, (2) maternity benefit, (3) disablement benefit, (4) dependants' benefit and (5) medical benefit.

The right to receive benefit is not transferable or assignable and the cash benefit is not attachable. The person entitled to any benefit under this Act is not entitled to receive similar benefit under any other Act, viz., Workmen's Compensation Act or Maternity Benefit Act. A person is also not entitled to receive more than any of the following benefits at the same time, viz., sickness, maternity and disablement.

#### **(1) Sickness Benefit**

This benefit consists of periodical cash payment to an insured person in case of sickness during which he is unable to attend his work on account of illness. An insured person will be entitled to receive sickness cash benefit during a benefit period provided he has fulfilled necessary contributory conditions during the corresponding contribution period. Contributions should be payable for two-thirds of the period, but the minimum number of contribution has been fixed at twelve. The benefit is payable for a maximum period of 56 days during the continuous period of 365 days, at a rate equal to one-half of the average daily wages. Sickness benefit is payable for all the 7 days of the week. It is not payable for an initial waiting period of 2 days unless the spell of sickness occurs within a period of 15 days of the last spell of sickness for which benefit was paid.

#### **(2) Maternity Benefit**

The contributory conditions for this benefit are the same as in the case of sickness benefit except that in this case at least one contribution has been paid between 35 and 40 weeks before the week of confinement or notice of pregnancy. The rate of benefit is 12 annas per day or at sickness benefit rate whichever is higher, for six weeks before and six weeks after child-birth. There is, however, no waiting period in this case.

#### **(3) Disablement Benefit**

This benefit is payable in respect of temporary, permanent partial or permanent total disablement, as a result of an employment injury. The daily rate of benefit for temporary disablement is equivalent to half the assumed average daily wages for a continuous period of 52 weeks immediately preceding the week in which the injury occurs. Unlike sickness and maternity benefits, no contributory conditions have been prescribed for payment of this benefit which is payable right from the first day of incapacity as a result of temporary disablement if the same exceeds 7 days. The rate of benefit for permanent total disablement is same as temporary disablement. The rate for permanent partial disablement will be in proportion to the loss of earning capacity determined on the recommendation of a medical board. The permanent partial or total disablement benefit is payable in the form of a life pension.

#### **(4) Dependants' Benefit**

This benefit is payable in cash to the dependants of an insured person who dies as a result of employment injury. Dependants' benefits are payable to the insured person's wife and children at the following rates—at  $\frac{3}{5}$  of the full rate to the widow during life or till remarriage,  $\frac{2}{5}$  of the full rate to each legitimate or adopted son up to age 15 and  $\frac{2}{5}$  of the full rate to each legitimate unmarried daughter up to age 15 or marriage which is earlier.

The periodical cash payments for Disablement Benefit and Dependants' Benefit, prescribed by the Employees' State Insurance Act, is an improvement over the benefits so far provided under the Workmen's Compensation Act and are considered to be a far more suitable method of income security to workers. The Workmen's Compensation Act provides for a lump sum payment in case of permanent disablement or death caused by an employment injury whereas the Employees' State Insurance Act substitutes the lump sum by a regular periodical pension, as lump sum amount is apt to be squandered without regard to future requirements.

### **(5) Medical Benefit**

The insured person is entitled to receive medical benefit of such kind and scale as may be prescribed by the State Government or the Corporation, either in the form of out-patient treatment or attendance in hospital, dispensary or clinic. Medical benefit consists of free medical treatment in case of sickness, employment injury and maternity.

### **Employees' State Insurance Corporation**

The administration of the insurance scheme framed under the Act has been entrusted to an autonomous body called the Employees' State Insurance Corporation consisting of 39 members with the Central Minister for Labour and the Central Minister for Health as ex-officio Chairman and Vice-Chairman; five persons nominated by the Central Government including three of its officers; one person each representing each of the Part A and B States nominated by the State Governments; one person to represent the Part C States nominated by the Central Government; five persons representing employers and five persons representing employees; two persons representing medical profession and two persons elected by the Parliament. The members representing the various interests and those elected by Parliament hold office for a term of four years, while the representatives of the Central and State Governments hold office during the pleasure of the Governments nominating them.

### **Standing Committee**

A smaller body, known as the Standing Committee is to work as the executive of the Corporation. The Standing Committee is composed of members who are members of the Corporation. It consists of a Chairman and the three official members of the Corporation and nine members elected by the Corporation—(1) three nominees of the State Governments; (2) two representatives of employers; (3) two representatives of employees; (4) one representative of medical profession and (5) one representative of Parliament. The term of office of the members excepting Government nominees will be two years. The Standing Committee shall administer the affairs of the Corporation and shall exercise all its powers and functions.

### **Medical Benefit Council**

The Medical Benefit Council will consist of 28 members with the Director General, Health Services as ex-officio Chairman, Medical Commissioner of the Corporation as ex-officio member, Deputy Director General, Health Services nominated by the Central Government; one member representing each of the Part A States nominated by the State Governments concerned, three members each representing employers, employees and medical profession (out of which one shall be a woman). The term of office will be four years excepting Government representatives. The Council will advise the Corporation, the Standing Committee and the Medical Commissioner regarding the administration of medical benefit, certi-



fication for the purpose of granting benefit and other connected matters. The Council will investigate in connection with complaints against medical practitioners regarding the medical treatment and attendance.

### **Regional Boards, Regional Medical Benefit Councils, etc.**

The Corporation has power to appoint Regional Boards, Local Committees, Regional and Local Medical Benefit Councils and delegate such powers and functions as may be prescribed. Under the Regional offices, there will be several local offices and inspection offices. Regional offices maintain records of insured persons, administer local offices which deal with claims and benefits of insured persons.

### **Principal Officers and Staff**

The day to day administration of the scheme is entrusted to the following Principal Officers—Director General of Employees' State Insurance, Insurance Commissioner, Medical Commissioner, Chief Accounts Officer and Actuary. The principal officers will be wholtime officers of the Corporation and are not allowed to do any work unconnected with their office without previous sanction. The Director General is the Chief Executive Officer of the Corporation and functions through the network of regional and local offices.

The Corporation will appoint other staff for efficient transaction of the business; but Government's sanction is necessary for creation of any post with a salary of Rs. 500/- or over.

### **Employees' State Insurance Fund and Finance**

The scheme is financed by the Employees' State Insurance Fund, which is administered by the Corporation. The Fund will consist of contributions received from the employers and employees, donations and gifts from Central and State Governments, local authorities, etc.

The fund shall be expended, amongst others, for (1) payment of benefits and provision for medical treatment to insured persons and their families, if extended; (2) payment of fees and allowances to the members of the Corporation, Standing Committee, Medical Benefit Council, Regional Boards, Local Committees, Regional and Local Medical Benefit Councils; (3) payment of salaries and allowances of officers and staff of the Corporation; (4) establishment and maintenance of hospitals, dispensaries and other institutions; (5) payment of contributions to others for cost of medical treatment and attendance to the insured and (6) defraying expenditure for health and welfare of insured persons and for their rehabilitation and re-employment if disabled or injured.

During the first five years, the Central Government have to make an annual grant to the Fund of a sum equivalent to two-thirds of the administrative expenses of the Corporation, not including the costs of benefits. The State Governments also share in financing the scheme by meeting a share of the cost of medical treatment and attendance on the insured persons, the proportion being governed by an agreement between the Corporation and the State Governments. The Corporation has to prepare an annual budget showing the estimate of receipts and expenditure to be incurred during the following year and submit a copy for the approval of the Central Government.

### **Contributions by the Employers and Employees**

The weekly contribution in respect of an employee, is payable by the employee and his employer at the rate specified in Schedule I of the Act. For this purpose the employees have been divided into eight groups on the basis of their average daily wages. An employee earning between Re. 1/- and Rs. 1/8/- per day will pay

annas 2 per week as his contribution, while one drawing Rs. 8/- or more per day will pay Rs. 1/4/- per week. Employees earning less than Re. 1/- per day are exempted from payment, though they are still entitled to all the benefits of the scheme. The average contribution of employees works at about 2% to 2½% of their wages. The principal employer shall pay in respect of every employee, whether employed by him or through an immediate employer, both the employer's contribution and the employee's contribution and he is entitled to recover the employee's contribution by deducting it from his wages due for the period to which contribution relates.

No employees' contributions are payable for any week during which no services are rendered and no wages are received, but during the periods of authorised leave, lock-out or legal strike, the employees' contribution will be payable only if wages are paid either in part or full in respect of the periods covered by such strikes.

### **Employer's Special Contributions**

The implementation of the scheme by gradual stages gave rise to complaints of the employers where the scheme was first to start, about unfair competition and rise in costs of production as a result of their obligation to pay contributions, while the employers in other regions were free from such obligation. The Act was accordingly amended in 1951 to spread the incidence of the cost of the scheme equitably over all employers throughout the country, employers in regions where the scheme is implemented paying higher contributions.

Under the Amending Act, the Central Government have fixed the percentage of the rates of employer's contribution at one and one-fourth per cent of their total wage bill in areas where the scheme is introduced. In other places, employers will pay a special employers' contribution of three-fourths of one per cent of their total wage bill. Wherever the scheme is introduced, the employers' responsibilities under the Workmen's Compensation Act and Maternity Benefit Act and cost of medical care in respect of employees will be taken over by the Corporation.

The provisions of the Amending Act are designed to meet the needs of the transition period. When the scheme has been implemented throughout the country, the employers' contribution will be in accordance with Schedule I of the Act. While the employee pays his contribution only if the scheme has been brought into operation in his area, employers throughout the country are paying employers' special contributions with effect from 24th February, 1952, under the transitory provisions of the Amending Act of 1951.

### **Liability of the Employers**

Where an employment injury is sustained by an insured person on account of negligence of the employer in the observance of safety rules, the Corporation is entitled to recover from the employer, the actuarial present value of periodical payments to be made to the insured person. Where the Corporation considers that the incidence of sickness amongst insured persons is excessive on account of insanitary working conditions in the factories or establishments or insanitary conditions of the tenements or lodgings, the Corporation will forward a claim to the owner or occupier of the factory or establishment for payment of extra expenditure incurred as sickness benefit. If the claim is not settled by agreement, the same will be referred to the State Government who will appoint competent person or persons to enquire into the matter. If the enquiring officer is satisfied that the excess in incidence of sickness is due to default or neglect of the owner of the factory or tenements, he will determine the amount of extra expenditure incurred as sickness benefit and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

Employers shall not reduce the wages of any employee or discontinue or reduce the benefit payable to him. Employers shall not also dismiss, discharge or otherwise punish any employee while receiving sickness or maternity benefit or discharge, reduce or otherwise punish any employee while receiving disablement benefit or is under medical treatment for sickness or is absent on account of pregnancy or confinement duly certified. Notice of dismissal, discharge or reduction during the above period shall not be valid or operative.

### **Employees' Insurance Court**

The Act contains provisions for setting up of Employees' Insurance Courts by the State Governments consisting of judicial officers or legal practitioners of five years' standing, to decide all questions and disputes arising out of the rate of contribution and liability of the employer regarding contribution and all claims regarding condition and benefit. Civil Court has no jurisdiction over the above questions.

The Employees' Insurance Court shall have the powers of civil court and its order is enforceable like a civil court decree. The proceeding before the court shall be instituted by application in such form and with such fees as may be prescribed by the State Government. No appeal shall lie from an order of the court, but if it involves a substantial question of law, appeal shall lie to the High Court.

### **Exemption by Appropriate Government**

The Act empowers the appropriate Government to grant exemption to a factory or establishment or class of factories or establishments or any persons or class of persons in any factory or establishment, from the operation of the Act for a period not exceeding one year and to renew such exemption for periods not exceeding one year at a time.

### **Penalties and Prosecutions**

Infringement of the provisions of the Act is punishable with imprisonment which may extend to 3 months or with fine which may extend to Rs. 500/- or with both. Prosecution has to be instituted before a Presidency Magistrate or a Magistrate of the first class, by or with the previous sanction of the Insurance Commissioner within six months of the commission of the offence.

### **Employees' State Insurance (Amendment) Act, 1951 (LIII of 1951)**

Though the Employees' State Insurance Act was enacted in April, 1948, it was not possible to implement the scheme throughout the country simultaneously due to setting up of necessary administrative arrangements and statutory bodies. A programme of phased implementation of the scheme was drawn up by the Employees' State Insurance Corporation and it was proposed to introduce two pilot schemes, in the first instance, in Kanpur and Delhi by July, 1950. The employers of Kanpur, however, raised certain objections to the scheme and pointed out that if the scheme was to be implemented only in few regions without its simultaneous application in other areas, it would increase the cost of production in these places and would thus adversely affect their competitive position. The Government of India recognised the force of the above argument and decided to distribute the employers' contribution all over the country in an equitable manner so that the phased implementation of the scheme is not affected in any way. As the levy of employers' contribution outside the scheme area was not provided in the original Act, an Amending Bill was introduced in the Parliament and was passed as the Employees' State Insurance (Amendment) Act, 1951.

The main object of this amendment is to spread the incidence of cost of the scheme equitably over all employers throughout India and to provide for the employers' special contribution for a temporary period till the original Act is implemented throughout the country. Under the amendment, the employers all over India shall pay the employers' special contribution which will not exceed 5% of their total wage bill. The percentage is to be specified by the Central Government from time to time. By a notification dated the 1st February, 1952, the Central Government has decided that the employers' special contribution in the places where the scheme is introduced will be one and one-fourth per cent of their total wage bill and in other places the employers' special contribution will be three-fourths of one per cent of the total wage bill, with effect from 24th February, 1952. The provisions of the amendment are designed to meet the needs of the transitory period and will be inoperative after the scheme is implemented in full throughout the country.

### Enforcement and Implementation

Chapters I (Preliminary), II (Corporation, Standing Committee and Medical Benefit Council), III (Finance and Audit) and VIII (Miscellaneous) were brought into force in all Part A States from 1st September, 1948. Chapter IV (Contributions)—Sections 44 (Employers to furnish returns and maintain registers in certain cases) and 45 (Inspectors, their duties and functions) and Chapter VII (Penalties) were brought into force in all Part A States, States of Delhi, Ajmer, Coorg and Andaman and Nicobar Islands from 1st April, 1950. The above provisions were also brought into force in the remaining Part C States from 1st December, 1950 and in all Part B States except the State of Jammu and Kashmir from the 24th November, 1951. Chapter V-A of the Amending Act of 1951 by which a special contribution is leviable on all employers was brought into force all over India except the State of Jammu and Kashmir with effect from the 24th of November, 1951.

The benefit provisions of the Act were first introduced in (1) Kanpur and Delhi on the 24th February, 1952 and were later extended to (2) eight industrial cities of Punjab with effect from the 17th May, 1953; (3) Nagpur on the 11th July, 1954; (4) Greater Bombay on the 2nd October, 1954; (5) four industrial cities of Madhya Bharat, viz., Ujjain, Gwalior, Ratlam, Indore on the 23rd January, 1955; (6) Coimbatore in Madras from the 23rd January, 1955; (7) Hyderabad and Secunderabad cities on the 1st May, 1955; (8) Madras city and eleven revenue villages in Chingleput District on the 20th November 1955; (9) Calcutta city and Howrah district on the 15th August, 1955 and (10) municipal areas of Agra, Lucknow and Saharanpur and cantonment areas of Agra and Lucknow from 15th January, 1956. The scheme will be extended shortly to Ahmedabad, Bangalore, Saurashtra and certain industrial towns of Travancore-Cochin and West Bengal.

The working of the scheme in the implemented areas has proved that the benefits provided therein are a boon to the factory workers in as much it not only guarantees their income security in case of sickness, maternity or disablement and makes easily available expert medical attention in case of illness but also it saves the dependant widow and children of the employee dying as a result of an employment injury from utter destitution through periodical cash payments.

The employers in the implemented areas are also absolved of their liability under the Workmen's Compensation Act, Maternity Benefit Act and cost of medical care of their employees as all these functions have been taken over by the Employees' State Insurance Corporation.

### **Employees' State Insurance (Central) Rules, 1950**

The Rules framed by the Central Government under Section 95 of the Act was finally published on the 1st July, 1950. These rules relate to the election of members to the Standing Committee, salaries, allowances, conditions of service, powers and duties of the Principal Officers of the Corporation; raising and repayment of loans; disposal and investment of funds; annual budget estimates, audit and accounts and provident fund.

### **Medical Benefit Rules & Insurance Court Rules**

A set of model rules under Section 96 of the Act was also framed by the Central Government and forwarded to the State Governments for adoption. Most of the States have framed Employees' State Insurance (Medical Benefit) Rules and Employees' Insurance Courts Rules.

### **Employees' State Insurance (General) Regulations, 1950\***

In exercise of the powers conferred by Section 97 of the Act, the Employees' State Insurance Corporation at its meeting held in May, 1950, has framed Regulations for administration of its affairs and for carrying into effect the provisions of the Act. The Corporation has also made certain amendments to the regulations as were considered necessary.

### **Further Extension of Social Insurance Scheme in India**

The Employees' State Insurance Act of 1948, though first of its kind in South-East Asia, is limited in its scope and application. The Social Security Act, 1954 (LXVII of 1954) enacted in Burma in October 1954, provides for (1) general insurance for sickness, maternity and death and (2) employment injuries insurance for employment accidents and occupational diseases and its scope is more wide than the Indian legislation. It appears to (a) industrial establishments employing at least ten workers; (b) Government railways; (c) public industrial and transport establishments; (d) ports; (e) mines; (f) oilfields; (g) stevedoring establishments; (h) employees of Social Security Board administering the law and (i) any other establishment notified by the President from time to time.

Though the Act was passed in April, 1948, it has not yet been fully implemented all over India even during the end of 1955. Of course, in a vast country like India, it has not been possible to implement the scheme throughout the country simultaneously after setting up different statutory bodies envisaged under the law. It is expected that at the present rate of progress in the implementation of the scheme, all factory workers throughout the country will be covered by the end of 1956 and then it will cover only about two and half million workers. It may be mentioned here that the National Insurance Act, though passed in 1946 in Great Britain, was implemented in full from July, 1949.

The Planning Commission, also, in the First Five Year Plan (April, 1951 to March, 1956) remarked that "both in its coverage and the amount of benefits provided the scheme may appear to be modest as compared with similar schemes in some of the advanced countries" and recommended that "in view of its novelty, administrative and other difficulties and the financial implications of the scheme, effort should be directed during the period of Plan only to the proper implementation of the scheme in its present form and to putting it on a sound and sure foundation."<sup>4</sup>

The Central Labour Minister while closing his speech on the Workmen's State Insurance Bill in the Constituent Assembly on the 2nd April, 1948, remarked that "it is the beginning of the social security measures but there is a provision in the

\* Planning Commission—The First Five Year Plan, page 586.

Bill itself by which the benefits of this measure may be expanded and extended to any extent in order to cover the various categories of the working classes in the country. I hope the Corporation, the Provincial Governments and the Central Government will take the earliest opportunity to extend the scope of this Bill as soon as conditions permit."<sup>5</sup> The former Director-General of the Employees State Insurance Corporation in the concluding portion of his article on State Insurance Scheme published in the Indian Labour Gazette in April 1952, remarked, "As we gather experience and as our national income increases, I am confident the scope as well as benefits provided under this measure will be enhanced and it will not be long when other risks such as unemployment, old age, death, etc., will be covered and not only industrial workers but everyone in this country will be protected against the social risks to which a man is ordinarily exposed in his life. That is our cherished goal and we hope to achieve it in not too distant a future."<sup>6</sup>

## EMPLOYEES' STATE INSURANCE ACT, 1948 (XXIV OF 1948)

### Statement of Objects and Reasons<sup>1</sup>

1. The introduction of a scheme of Health Insurance for Industrial Workers has been under the consideration of the Government of India for a long time. The necessity for such a scheme has become more urgent in view of the conditions brought about by war. The scheme envisaged is one of compulsory State insurance providing for certain benefits in the event of sickness, maternity and employment injury to workmen employed in or in connection with work in factories other than seasonal factories.

2. A scheme of this nature has to be planned on an all-India basis and administered uniformly throughout the country. With this object, the administration of the scheme is proposed to be entrusted to a Corporation constituted by central legislation.

3. The functions of the Corporation will be performed by a Central Board constituted of representatives of Central and Provincial Governments, and of employers, workers and the medical profession. The Board will also include certain members elected by the Central Legislative Assembly. A Standing Committee of the Board will act as the executive of the Board, and a Medical Benefit Council will also be set up to advise on matters relating to the administration of medical benefit.

4. The insurance fund will be mainly derived from contributions from employers and workmen. The contributions payable in respect of each workman will be based on his average wages and will be payable in the first instance by the employer. The employer will be entitled to recover the workman's share from the wages of the workman concerned. Workmen whose earnings do not exceed 10 annas a day will be totally exempt from payment of any share of the contribution, the entire contribution on account of such workmen being met by the employer. Provision has been made for the preparation of proper budgets and the audit of accounts.

5. The insured workman will be entitled to the following benefits:—

(a) Sickness Cash Benefit—A workman, if certified sick and incapable of working, will receive for a period not exceeding 8 weeks in any continuous 12 monthly period, a cash allowance equal approximately to half his average daily wages during previous six months. He will also be entitled to receive medical care and treatment at such hospitals, dispensaries or other institutions to which the factory in which he is employed may be allotted.

(b) Maternity Benefit—Woman workers will be entitled to receive a maternity benefit at 12 annas a day for 12 weeks. They will also be entitled to medical aid at the aforesaid medical institutions.

(c) Disablement and Dependents' Benefits—A workman disabled by employment injury will receive, for the period of disablement or life depending on whether the disablement is temporary or full and permanent as the case may be, a monthly pension equivalent to half his average wages during the previous twelve months, subject to a maximum and

<sup>5</sup> Constituent Assembly of India (Legislative) Debates, 1948, Vol. IV—No. 8, page 3087.

<sup>6</sup> Indian Labour Gazette, Vol. IX, July 1951—June, 1952, page 822.

<sup>1</sup> Gazette of India, 1946, Part V, pages 355 to 357. The Bill was introduced as Workmen's State Insurance Bill, 1946 and the Select Committee inserted the word "Employees" in place of "Workmen's."

minimum. Where disablement is partial, the pension will be proportionately reduced. In case of death resulting from employment injury, the pension will be payable to the widow or widows, minor sons and minor and unmarried daughters, or in case there are no widow and legitimate children, to other dependants, of the deceased workman. The workman will also be entitled to medical care and treatment.

6. Medical care and treatment to insured workmen will be provided by Provincial Governments at such hospitals, dispensaries and other institutions as may be prescribed for the purpose. The cost of the medical benefit will be shared between the Provincial Government and the Corporation in such proportions as may be agreed upon between them. In case the average incidence of sickness cash benefit in any Province is in excess of the all-India average, Provincial Government will also bear such share of the cost of the excess incidence as may be agreed upon between it and the Corporation.

7. Workmen's State Insurance Courts will be set up to decide disputes and adjudicate on claims. The cost of the tribunal will be paid by the insurance fund.

8. Central Government will make rules on matters relating to the administration of the Corporation, such as nomination and election of members of the Board, Standing Committee, Medical Benefit Council, powers and duties of the principal officers, raising of loans, investment of funds, accounts to be maintained by the Corporation, their audit and publication. Provincial Government will make rules on matters relating to the workmen's insurance courts to be set up under the Act, establishment of hospitals, dispensaries, medical institutions, etc., and the scale of medical benefit to be provided to insured persons. The Board will make regulations on matters relating to the working of the scheme, e.g., collection of contributions, payment of benefits, returns and other particulars to be submitted by employers in respect of workmen employed by them, the conditions to be observed by insured persons in receipt of benefits, etc.

9. The Bill makes detailed provisions in regard to the above matters. As the clauses are self-explanatory, Notes on Clauses have not been appended.

## AMENDING ACT OF 1951 (LIII OF 1951)

### Statement of Objects and Reasons<sup>2</sup>

The Employees' State Insurance Act, 1948, was passed by the Dominion Legislature in April 1948. It provides for certain benefits to industrial employees in case of sickness, maternity and employment injury. The Act permits the implementation of the scheme by stages.

2. It was intended that the scheme should be implemented in the first instance in Delhi and Kanpur, but regional implementation of such schemes is always attended with certain practical difficulties. The principal difficulties are the rise in the cost of production and the diminution of the competitive capacity of industries located in those regions. The main objections of the employers centred round the former difficulty and those of the Uttar Pradesh Government emphasised the latter. The Central Government have considered those objections and are anxious to avoid any competitive handicap to any region. This may be best achieved by an equitable distribution of the employer's contribution, even where implementation is effected only in certain areas, among the employers in the whole country—employers in regions where the scheme is implemented paying slightly higher contributions. This will minimise the contribution leviable from the employers and spread the incidence of the cost of the scheme equitably. This Bill is primarily intended to achieve this object.

3. Advantage has been taken of this opportunity to effect some other amendments to the Act which have been found necessary for rectifying certain defects and removing certain lacunæ in the Act. The reasons for the amendments are, wherever necessary, given in the Notes on Clauses attached to this Bill.

### Notes on Clauses

Clause 2—Sub-section (3) of section 1 does not permit of implementing the scheme directly in a part of a State. This amendment provides for such implementation.

Clause 3(c)—Railway running sheds are excluded from the definition of factories in the Factories Act, 1948. This amendment seeks to achieve the same object in respect of the Employees' State Insurance Act.

<sup>2</sup> Gazette of India, 1951, Part II—Section 2, pages 141-143.

Clause 5—In order to avoid frequent elections and notifications arising out of the changes in the State Governments' nominees, this clause provides for notification by the Central Government of three States Governments whose representatives would automatically be on the Standing Committee.

Clause 8—This clause provides for the cessation of membership on the loss of representative character.

Clause 12—This clause provides for the maintenance of records and furnishing of some additional information.

Clause 14—The principal change is liberalisation of the daily rate of maternity benefit. By this amendment the insured woman would be entitled to the existing daily rate of 12 annas or the sickness rate whichever is the higher.

Clause 15—This clause removes the power to determine rates of dependants' benefits in certain cases from the Workmen's Compensation Act Commissioner and vests it in the Employees' Insurance Court. Similarly the ultimate responsibility for the other duties of Workmen's Compensation Act Commissioner is being shifted to the Employees Insurance Court by other amendments in the Bill. This is in conformity with the general procedure for adjudications of other disputes and claims under the Act.

Clause 16.—The power of review is to be exercised in cases of dependants' benefits also.

Clause 20—A new self-contained chapter is proposed providing for the collection of employer's special contribution throughout the Union. The rate of the contribution which may be varied from time to time is to be fixed by the Central Government after two months' notice by notification. The rate of the contribution shall be higher in areas where the scheme applies than in other areas. The manner of and time within which the special contribution is to be paid would be notified by the Central Government. Consequential provisions fitting the employer's special contribution into the existing scheme of the Act and other necessary provisions have been made in this Chapter. The Central Government is empowered to give direction or provide for such matters as may be necessary for the removal of any difficulty. The Chapter can be withdrawn from operation by the Central Government after giving three months' notice.

Clause 24—This provision enables the Corporation and the Standing Committee to delegate to their officers such of their powers as they may think fit. This power is necessary for carrying on day to day administration.

Clause 25—The principal change is the avoidance of previous publication in the case of regulations relating to the conditions of service of employees of the Corporation.

Clause 28—The amendment is intended to simplify calculation and clarify certain doubtful points.

Clause 29—The amendments are principally intended to remove certain doubts, anomalies and obvious omissions.

## EMPLOYEES' STATE INSURANCE ACT, 1948 (XXXIV OF 1948)

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SCHEDULE I.

SCHEDULE II.

# EMPLOYEES' STATE INSURANCE ACT, 1948 (XXXIV OF 1948)<sup>1</sup>

*An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.*

[19th April, 1948.]

Whereas it is expedient to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto:

It is hereby enacted as follows:—

## CHAPTER I—PRELIMINARY

**1. Short title, extent, commencement and application.**—(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to <sup>2</sup>[the whole of India <sup>3</sup>[except the State of Jammu and Kashmir]].

(3) It shall come into force on such date or dates<sup>4</sup> as the Central Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different provisions of this Act and <sup>3</sup>[for different States or for different parts thereof].

(4) It shall apply, in the first instance, to all factories (including factories belonging to the <sup>2</sup>[Government]) other than seasonal factories.

(5) The appropriate Government may, in consultation with the Corporation and <sup>3</sup>[where the appropriate Government is a State Government, with the approval of the Central Government], after giving six months' notice of its intention of so doing by notification in the official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(1) "appropriate Government" means, in respect of establishments under the control of the Central Government or <sup>2</sup>[a railway administration] or a major port or a mine or oilfield, the Central Government, and in all other cases, the <sup>2</sup>[State] Government;

<sup>5</sup>[(2) "benefit period" means such period, being not less than twenty-five but not exceeding twenty-seven consecutive weeks or six consecutive months corresponding to the contribution period, as may be specified in the regulations:

Provided that in the case of the first benefit period a longer or shorter period may be specified by or under the regulations;]

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, pp. 319 to 357; see also page 1037 ante, and for Report of the Select Committee, see Gazette of India, 1948, Pt. V, pp. 124 to 159.

<sup>2</sup> Subs. by the A. O. 1950.

<sup>3</sup> Subs. by Act 53 of 1951, s. 2.

<sup>4</sup> Chapters I, II, III and VIII were brought into force from the 1st September, 1948, vide Notification No. SS. 21 (2), dated the 31st August, 1948, Gazette of India Extraordinary, 1948, p. 1417; Sections 44 and 45 of Chapter IV and Chapter VII were brought into force on the 1st April, 1950 in all Part A States, States of Ajmer, Coorg, Delhi and the Andaman and Nicobar Islands, vide Notification No. SS-121 (32), dated the 3rd April, 1950, Gazette of India 1950, Pt. I, Section I, p. 64. Chapters I, II, III, VII and VIII and Sections 44 and 45 of Chapter IV and Chapter V-A were brought into force from the 24th November, 1951 in all Part B States except Jammu and Kashmir, vide Ministry of Labour Notification No. S.R.O. 1832 dated the 24th November, 1951, Gazette of India, 1951, Part III—Section 2, page 2033.

<sup>5</sup> Subs. by Act 53 of 1951, s. 3.

(3) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

(4) "contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

<sup>5</sup>[(5) "contribution period" means such period, being not less than twenty-five but not exceeding twenty-seven consecutive weeks or six consecutive months, as may be specified in the regulations:

Provided that in the case of the first contribution period a longer or shorter period may be specified by or under the regulations;]

(6) "corporation" means the Employees' State Insurance Corporation set up under this Act;

(7) "duly appointed" means appointed in accordance with the provisions of this Act or with the rules or regulations made thereunder;

(8) "employment injury" means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a factory or establishment to which this Act applies, which injury or occupational disease would entitle such employee to compensation under the Workmen's Compensation Act, 1923 (VIII of 1923), if he were a workman within the meaning of the said Act;

(9) "employee" means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and—

- (i) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere; or
- (ii) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or
- (iii) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service;

but does not include—

- (a) any member of <sup>6</sup>[the Indian] naval, military or air forces; or
- (b) any person employed on a remuneration which in the aggregate exceeds four hundred rupees a month;

(10) "exempted employee" means an employee who is not liable under this Act to pay the employee's contribution;

(11) "family" means the spouse and minor legitimate and adopted children dependant upon the insured person and where the insured person is a male, his dependent parents;

(12) "factory" means any premises including the precincts thereof whereon twenty or more persons are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried

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<sup>6</sup> Subs. by the A. O. 1950.

on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923), '[or a railway running shed];

"seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes:

The expressions "manufacturing process" and "power" shall have the meanings respectively assigned to them in the Factories Act, <sup>8</sup>[1948] (LXIII of 1948);

(13) "immediate employer" in relation to employees employed by or through him, means a person who has undertaken the execution on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer;

(14) "insured person" means a person who is or was an employee in respect of whom contributions are or were payable under this Act and who is, by reason thereof, entitled to any of the benefits provided by this Act;

(15) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, <sup>8</sup>[1948] (LXIII of 1948);

(16) "prescribed" means prescribed by rules made under this Act;

(17) "principal employer" means—

(i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under the Factories Act, <sup>8</sup>[1948] (LXIII of 1948), the person so named;

(ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the Department;

(iii) in any other establishment, any person responsible for the supervision and control of the establishment;

(18) "regulation" means a regulation made by the Corporation;

(19) "Schedule" means a Schedule to this Act;

(20) "sickness" means a condition which requires medical treatment and attendance and necessitates abstention from work on medical grounds;

(21) "temporary disablement" means a condition resulting from an employment injury which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of work;

(22) "wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes other additional remuneration, if any, <sup>9</sup>[paid at intervals not exceeding two months], but does not include—

(a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;

<sup>7</sup> Added by Act 53 of 1951, s. 3.

<sup>8</sup> Subs., *ibid.*

<sup>9</sup> Subs. by Act 53 of 1951, s. 3.

- (b) any travelling allowance or the value of any travelling concession;
- (c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (d) any gratuity payable on discharge;

(23) "week" means a period of seven days commencing at midnight of Saturday night;

(24) the expression "dependant" "managing agent", "occupational disease", "partial disablement" where the disablement is of a permanent nature and "total disablement" shall have respectively the meanings assigned to them in the Workmen's Compensation Act, 1923 (VIII of 1923).

## CHAPTER II—CORPORATION, STANDING COMMITTEE AND MEDICAL BENEFIT COUNCIL

**3. Establishment of Employees' State Insurance Corporation.**—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

(2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

**4. Constitution of Corporation.**—The Corporation shall consist of the following members, namely:—

- (a) the Minister for Labour in the Central Government, *ex-officio*, as Chairman;
- (b) the Minister for Health in the Central Government, *ex-officio*, as Vice-Chairman;
- (c) not more than five persons to be nominated by the Central Government of whom at least three shall be officials of the Central Government;
- (d) one person each representing each of the <sup>10</sup>[Part A States and Part B States in which this Act is in force] to be nominated by the <sup>11</sup>[State] Government concerned;
- (e) one person to be nominated by the Central Government to represent the <sup>11</sup>[Part C States].
- (f) five persons representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (g) five persons representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government;
- (h) two persons representing the medical profession to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government; and
- (i) two persons to be elected by <sup>11</sup>[Parliament].

**5. Term of office of members of the Corporation.**—(1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation,

<sup>10</sup> Subs. by Act 53 of 1951, s. 4.

<sup>11</sup> Subs. by the A. O. 1950.

other than the *ex-officio* members and members referred to in clauses (c), (d) and (e) of section 4, shall be four years commencing from the date on which their nomination or election is notified:

Provided that a member of the Corporation shall, notwithstanding the expiry of the said period of four years, continue to hold office until the nomination or election of his successor is notified.

(2) The members of the Corporation referred to in clauses (c), (d) and (e) of section 4 shall hold office during the pleasure of the Government nominating them.

**6. Eligibility for renomination or re-election.**—An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for renomination or re-election as the case may be.

**7. Authentication of orders, decisions, etc.**—All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or some other member authorised by the Corporation in this behalf and all other instruments issued by the Corporation shall be authenticated by the signature of such member or office of the Corporation as may be authorised by it.

**8. Constitution of Standing Committee.**—A Standing Committee of the Corporation shall be constituted from among its members, consisting of—

- (a) a Chairman, nominated by the Central Government;
  - (b) three members of the Corporation, being officials of the Central Government, nominated by that Government;
  - <sup>12</sup>[(bb) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time;]
  - (c) <sup>13</sup>[six] members elected by the Corporation as follows:—
- |                 |   |   |   |
|-----------------|---|---|---|
| <sup>14</sup> * | * | * | * |
|-----------------|---|---|---|
- (ii) two members from among the members of the Corporation representing employers;
  - (iii) two members from among the members of the Corporation representing employees;
  - (iv) one member from among the members of the Corporation representing the medical profession; and
  - (v) one member from among the members of the Corporation elected by <sup>15</sup>[Parliament].

**9. Term of office of members of Standing Committee.**—(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or [clause (b) or clause (bb)] of section 8, shall be two years from the date on which his election is notified:

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

<sup>12</sup> Ins. by Act. 53 of 1951, s. 5.

<sup>13</sup> Subs., *ibid.*

<sup>14</sup> Sub-clause (i), omitted, *ibid.*

<sup>15</sup> Subs. by the A. O. 1950.

(2) A member of the Standing Committee referred to in clause (a) or <sup>16</sup>[clause (b) or clause (bb)] of section 8 shall hold office during the pleasure of the Central Government.

**10. Medical Benefit Council.**—(1) The Central Government shall constitute a Medical Benefit Council consisting of—

- (a) the Director General, Health Services, *ex-officio*, as Chairman;
- (b) a Deputy Director General, Health Services, to be nominated by the Central Government;
- (c) the Medical Commissioner of the Corporation, *ex-officio*;
- (d) one member each representing each of the <sup>17</sup>[Part A States or Part B States in which this Act is in force] to be nominated by the <sup>18</sup>[State] Government concerned;
- (e) three members representing employers to be nominated by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government;
- (f) three members representing employees to be nominated by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government; and
- (g) three members, of whom not less than one shall be a woman, representing the medical profession, to be nominated by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government.

(2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a member referred to in any of the clauses (a) to (d) of sub-section (1), shall be four years from the date on which his nomination is notified.

(3) A member of the Medical Benefit Council referred to in clauses (b) and (d) of sub-section (1) shall hold office during the pleasure of the Government nominating him.

**11. Resignation of membership.**—A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

**12. Cessation of membership.**—<sup>19</sup>[(1)] A member of the Corporation, the Standing Committee, or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof:

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.

<sup>20</sup>[(2) Where in the opinion of the Central Government any person nominated or elected to represent employers, employees or the medical profession on the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, has ceased to represent such employers, employees or the medical profession, the Central Government may, by notification in the Official Gazette, declare

<sup>16</sup> Subs. by Act 53 of 1951, s. 6.

<sup>17</sup> Subs. by Act 53 of 1951, s. 7.

<sup>18</sup> Subs. by the A. O. 1950.

<sup>19</sup> Renumbered as sub-section (1), by Act 53 of 1951, s. 8.

<sup>20</sup> Ins. *ibid.*



that with effect from such date as may be specified therein such person shall cease to be a member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be.]

**13. Disqualification.**—A person shall be disqualified for being chosen as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council—

- (a) if he is declared to be of unsound mind by a competent Court; or
- (b) if he is an undischarged insolvent; or
- (c) if he has directly or indirectly by himself or by his partner any interest in a subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a shareholder (not being a Director) of a company; or
- (d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

**14. Filling of vacancies.**—(1) Vacancies in the office of nominated or elected members of the Corporation, the Standing Committee and the Medical Benefit Council shall be filled by nomination or election, as the case may be.

(2) A member of the Corporation, the Standing Committee or the Medical Benefit Council nominated or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is nominated or elected would have been entitled to hold office if the vacancy had not occurred.

**15. Fee and allowances.**—Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

**16. Principal Officers.**—(1) The Central Government may, in the case of the first appointments itself and in the case of subsequent appointments, in consultation with the Corporation, appoint the following officers (hereinafter referred to as Principal Officers) of the Corporation, namely:—

- (a) a Director General of Employees' State Insurance;
- (b) an Insurance Commissioner;
- (c) a Medical Commissioner;
- (d) a Chief Accounts Officer; and
- (e) an Actuary.

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) The Principal Officers shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government.

(4) A Principal Officer shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Principal Officer shall be eligible for reappointment if he is otherwise qualified.

(5) A Principal Officer shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being a Principal Officer if he is subject to any of the disqualifications specified in section 13.

(7) The Central Government may at any time remove a Principal Officer from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

**17. Staff.**—(1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post with a maximum monthly salary of five hundred rupees and above.

(2) The Corporation shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff.

(3) Every appointment to posts carrying a maximum monthly pay of five hundred rupees and above shall be made in consultation with the <sup>21</sup>[Union] Public Service Commission:

Provided that this sub-section shall not apply to an officiating or temporary appointment for an aggregate period not exceeding one year.

**18. Powers of the Standing Committee.**—(1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

**19. Corporation's power to promote measures for health, etc., of insured persons.**—The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

**20. Meetings of Corporation, Standing Committee and Medical Benefit Council.**—Subject to any rules made under this Act, the Corporation, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.

**21. Supersession of the Corporation and Standing Committee.**—(1) If in the opinion of the Central Government, the Corporation or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may, by notification in the official Gazette, supersede the Corporation, or in the case of the Standing Committee, supersede in consultation with the Corporation, the Standing Committee:

Provided that before issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Corporation or the Standing Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation or the Standing Committee, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Corporation or the Standing Committee, all the members of the Corporation or the Standing Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

(3) When the Standing Committee has been superseded, a new Standing Committee shall be immediately constituted in accordance with section 8.

<sup>21</sup> Subs. by the A. O. 1950 for "Federal".

(4) When the Corporation has been superseded, the Central Government may—

- (a) immediately nominate or cause to be nominated or elected new members to the Corporation in accordance with section 4 and may constitute a new Standing Committee under section 8;
- (b) in its discretion, appoint such agency, for such period as it may think fit, to exercise the powers and perform the functions of the Corporation and such agency shall be competent to exercise all the powers and perform all the functions of the Corporation.

(5) The Central Government shall cause a full report of any action taken under this section and the circumstances leading to such action to be laid before <sup>22</sup>[Parliament] at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Corporation or the Standing Committee, as the case may be.

**22. Duties of Medical Benefit Council.**—The Medical Benefit Council shall—

- (a) advise <sup>23</sup>[the Corporation and the Standing Committee] on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters;
- (b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance; and
- (c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

**23. Duties of Principal Officers.**—The Principal Officers shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

**24. Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.**—No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

**25. Regional Boards, Local Committees, Regional and Local Medical Benefit Councils.**—The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations.

### CHAPTER III—FINANCE AND AUDIT

**26. Employees' State Insurance Fund.**—(1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

(2) The Corporation may accept grants, donations and gifts from the Central or any <sup>24</sup>[State] Government, <sup>25</sup>\* \* \*, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

<sup>22</sup> Subs. by the A. O. 1950.

<sup>23</sup> Subs. by Act 53 of 1951, s. 9.

<sup>24</sup> Subs. by the A. O. 1950.

<sup>25</sup> Words omitted by Act 53 of 1951, s. 10.

<sup>26</sup>[(3) Subject to the other provisions contained in this Act and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund.]

(4) Such account shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

**27. Grant by the Central Government.**—The Central Government shall, every year during the first five years, make a grant to the Corporation of a sum equivalent to two-thirds of the administrative expenses of the Corporation not including therein the cost of any benefits provided by or under this Act.

**28. Purposes for which the Fund may be expended.**—Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Employees' State Insurance Fund shall be expended only for the following purposes, namely:—

- (i) Payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families, in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;
- (ii) payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical Benefit Councils;
- (iii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;
- (iv) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families, their families;
- (v) payment of contributions to any <sup>27</sup>[State] Government <sup>28</sup>\* \* \*, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, their families including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;
- (vi) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;
- (vii) defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act;
- (viii) payment of any sums under any contract entered into for the purposes of this Act by the Corporation or the Standing Committee or by any officer duly authorised by the Corporation or the Standing Committee in that behalf;

<sup>26</sup> Subs. *ibid.*

<sup>27</sup> Subs. by the A. O. 1950.

<sup>28</sup> Words omitted, by Act 53 of 1951, s. 11.

- (ix) payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;
- (x) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;
- (xi) defraying expenditure, within the limits prescribed, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured; and
- (xii) such other purposes as may be authorised by the Corporation with the previous approval of the Central Government.

**29. Holding of property, etc.**—(1) The Corporation may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property both movable and immovable, sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(2) Subject to such conditions as may be prescribed by the Central Government, the Corporation may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Act and may, subject as aforesaid, from time to time re-invest or realise such investments.

(3) The Corporation may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(4) The Corporation may constitute for the benefit of its staff or any class of them, such provident or other benefit fund as it may think fit.

**30. Vesting of the property in the Corporation.**—All property acquired before the establishment of the Corporation shall vest in the Corporation and all income derived and expenditure incurred in this behalf shall be brought into the books of the Corporation.

**31. Expenditure by Central Government to be treated as a loan.**—All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to the date of its establishment shall be treated as a loan advanced by the Central Government to the Corporation and such loan shall be adjusted against grants from the Central Government to the Corporation.

**32. Budget estimates.**—The Corporation shall in each year frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Central Government before such date as may be fixed by it in that behalf. The budget shall contain provisions adequate in the opinion of the Central Government for the discharge of the liabilities incurred by the Corporation and for the maintenance of a working balance.

**33. Accounts.**—The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

**34. Audit.**—(1) The accounts of the Corporation shall be audited, at such times and in such manner as may be prescribed, by auditors appointed by the Central Government.

(2) The auditors shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may, for the purposes of the audit, call for such explanation and information as they may require or examine any principal or other officer of the Corporation.

(3) The auditors shall forward to the Central Government a copy of their report together with an audited copy of the accounts of the Corporation.

(4) The cost of the audit as determined by the Central Government shall be paid out of the funds of the Corporation.

**35. Annual report.**—The Corporation shall submit to the Central Government an annual report of its work and activities.

**36. Budget, audited accounts and the annual report to be placed before**<sup>29</sup>[Parliament].—The annual report, the audited accounts of the Corporation, and the Budget as finally adopted by the Corporation shall be placed before <sup>29</sup>[Parliament] and published in the official Gazette.

**37. Valuation of assets and liabilities.**—The Corporation shall, at intervals of five years, have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Central Government:

Provided that it shall be open to the Central Government to direct a valuation to be made at such other times as it may consider necessary.

#### CHAPTER IV—CONTRIBUTIONS

**38. All employees to be insured.**—Subject to the provisions of this Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act.

**39. Contributions.**—(1) The contributions payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.

(2) The contributions shall be paid at the rates specified in the First Schedule, and in cases where the provisions of this Act are made applicable to any employee or class of employees in any factory or establishment or class of factories or establishments in such manner that they are excluded from some of the benefits under this Act, at such rates as the Corporation may fix in this behalf.

(3) A week shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each week shall ordinarily fall due on the last day of the week, and where an employee is employed for part of the week; or is employed under two or more employers during the same week, the contributions shall fall due on such days as may be specified in the regulations.

**40. Principal employer to pay contributions in the first instance.**—(1) The principal employer shall pay in respect of every employee, whether directly employed by him or through an immediate employer, both the employer's contribution and the employee's contribution.

(2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the prin-

<sup>29</sup> Subs. by the A. O. 1950.

principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by deduction from his wages and not otherwise:

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the employee's contribution for the period.

(3) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the Employer's contribution from any wages payable to an employee or otherwise to recover it from him.

(4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(5) The principal employer shall bear the expenses of remitting the contributions to the Corporation.

**41. Recovery of contribution from immediate employer.**—(1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

(2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by deduction from wages and not otherwise, subject to the conditions specified in the proviso to sub-section (2) of section 40.

*Explanation.*—For the purposes of sections 40 and 41, wages shall be deemed to include payment to an employee in respect of any period of authorised leave, lock-out or legal strike.

**42. General provisions as to payment of contributions.**—(1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages are below one rupee.

*Explanation.*—The average daily wages of an employee shall be calculated in the manner specified in the First Schedule.

(2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each week during the whole or part of which an employee is employed.

(3) Where wages are payable to an employee for a portion of the week, the employer shall be liable to pay both the employer's contribution and the employee's contribution for the week in full but shall be entitled to recover from the employee the employee's contribution.

(4) No contribution shall be payable in respect of an employee for any week during the whole of which no services are rendered by an employee and in respect of which no wages are payable to him.

(5) Notwithstanding the provisions of sub-section (4), contribution shall be payable in respect of any week during which no services are rendered by and no wages are paid to an employee, at the rate at which contribution was last paid, where the failure to render such services is due to the employee being on authorised leave, or is due to a lock-out or a legal strike, if in respect of the period covered by such legal strike the employee receives wages in full or in part.

**43. Method of payment of contribution.**—Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for—

- (a) the manner and time of payment of contributions;
- (b) the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at and under which, such stamps are to be affixed or impressed;
- (c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate; and
- (d) the issue, sale, custody, production, inspection and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

<sup>30</sup>[**44. Employers to furnish returns and maintain registers in certain cases.**—

(1) Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any factory or establishment in respect of which he is the principal or immediate employer as may be specified in regulations made in this behalf.

(2) Where in respect of any factory or establishment the Corporation has reason to believe that a return should have been submitted under sub-section (1) but has not been so submitted, the Corporation may require any person in charge of the factory or establishment to furnish such particulars as it may consider necessary for the purpose of enabling the Corporation to decide whether the factory or establishment is a factory or establishment to which this Act applies.

(3) Every principal and immediate employer shall maintain such registers or records in respect of his factory or establishment as may be required by regulations made in this behalf.]

**45. Inspectors, their functions and duties.**—(1) The Corporation may appoint such persons as Inspectors, as it thinks fit, for the purposes of this Act, within such local limits as it may assign to them.

(2) Any Inspector appointed by the Corporation under sub-section (1) (hereinafter referred to as Inspector), or other official of the Corporation authorised in this behalf by it may, for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in section 44 or for the purpose of ascertaining whether any of the provisions of this Act has been complied with—

- (a) require any principal or immediate employer to furnish to him such information as he may consider necessary for the purposes of this Act; or
- (b) at any reasonable time enter any office, establishment, factory or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

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<sup>30</sup> Subs. by Act 53 of 1951, s. 12.



(c) examine, with respect to any matter relevant to the purposes aforesaid, the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to be or to have been an employee;

<sup>31</sup>[(d) make copies of, or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises;

(e) exercise such other powers as may be prescribed.]

(3) An Inspector shall exercise such functions and perform such duties as may be authorised by the Corporation or as may be specified in the regulations.

#### CHAPTER V—BENEFITS

**46. Benefits.**—(1) Subject to the provisions of this Act, the insured persons or, as the case may be, their dependants shall be entitled to the following benefits, namely:—

(a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner (hereinafter referred to as sickness benefit);

(b) periodical payments in case of confinement to an insured woman, certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);

(c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit);

(d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit); and

(e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit).

(2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

**47. When person eligible for sickness benefit.**—A person shall be qualified to claim sickness benefit during any benefit period, if during the corresponding contribution period, weekly contributions in respect of him were payable for not less than two-thirds of the number of weeks during which he shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions:

Provided that the Corporation may waive the minimum number of contributions during the first contribution period.

**48. When person deemed available for employment.**—A person shall always be deemed to have been available for employment in any week, except when during the whole of such week,—

(a) he was unable to work on account of sickness which had been duly certified, whether entitling him to receive sickness benefit or not, or

<sup>31</sup> Ins. by Act 53 of 1951, s. 13.

- (b) he was qualified to receive disablement benefit for temporary disablement, or
- (c) in the case of an insured woman, she was entitled to the maternity benefit provided in section 50 or she would have been entitled to such benefit if she had fulfilled all other conditions entitling her thereto.

**49. Sickness benefit.**—Subject to the provisions of this Act and the regulations, if any, a person qualified to claim sickness benefit in accordance with section 47 shall be entitled to receive such benefit at the rates specified in the Second Schedule for the period of his sickness:

Provided that he shall not be entitled to the benefit for an initial waiting period of two days except in the case of a spell of sickness following, at an interval of not more than fifteen days, the spell of sickness for which sickness benefit was last paid:

Provided further that sickness benefit shall not be paid to any person for a number of days in excess of the number which taken together with the number of days for which he has already received the benefit makes up a total of fifty-six days during any continuous period of three hundred and sixty-five days.

**50. Maternity benefit.**—(1) An insured woman shall be qualified to claim maternity benefit for a confinement <sup>32</sup>[occurring or expected to occur] in a benefit period if during the corresponding contribution period, weekly contributions in respect of her were payable for not less than two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions:

Provided that at least one contribution has been paid between thirty-five and forty weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement whichever is more advantageous to the insured person.

(2) Subject to the provisions of this Act, and the regulations, if any, an insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall be entitled to receive it at <sup>32</sup>[the daily rate specified in sub-section (3)] for all days on which she does not work for remuneration during a period of twelve weeks of which not more than six shall precede the expected date of confinement.

<sup>32</sup>[(3) The daily rate referred to in sub-section (2) shall be—

- (i) the rate at which the insured woman could have claimed sickness benefit for any period of sickness during the benefit period in which the confinement occurs or is expected to occur if she had been qualified to claim sickness benefit during that period, or

(ii) twelve annas,  
whichever is greater.]

**51. Disablement benefit.**—(1) Subject to the provisions of this Act, and the regulations, if any, disablement benefit shall be payable—

- (a) to a person who sustains temporary disablement, during the period of such disablement;
- (b) to a person who sustains permanent partial disablement, during his life;
- (c) to a person who sustains permanent total disablement, during his life; and
- (d) to a person, in all cases of disablement not falling under sub-clauses (a), (b) or (c) of this sub-section, as may be provided in the regulations.

(2) Disablement benefit shall be paid on the scale and subject to the conditions specified in this behalf in the Second Schedule.

<sup>32</sup> Subs. and inserted by Act 53 of 1951, s. 14.

**52. Dependants' benefit.**—Where an insured person dies as a result of an employment injury sustained as an employee under this Act, dependants' benefit shall be payable subject to the provisions of this Act and the regulations, if any, to his dependants at such rates and for such period as is specified in the Second Schedule.

**53. Disablement and dependants' benefits.**—Where an insured person is or his dependants are entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation, or damages under the Workmen's Compensation Act, 1923 (VIII of 1923), or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act, then the following provisions shall apply, namely—

- (i) The insured person shall, in lieu of such compensation or damages, receive the disablement benefit provided by this Act,<sup>33</sup> [but subject otherwise to the conditions specified in the Workmen's Compensation Act, 1923 (VIII of 1923)] from the Corporation and not from the employer or other person.
- (ii) If the insured person dies as a result of the employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury), dependants' benefit shall be payable at the rates and in the proportion specified in the Second Schedule to his widow or widows during her or their widowhood, and to minor legitimate or adopted sons and minor legitimate unmarried daughters.
- (iii) In case the insured person does not leave him surviving any widow or children as mentioned in clause (ii) or in the case of an insured woman if she does not leave her surviving any children as mentioned in clause (ii), dependants' benefit shall be paid to the other dependants of the deceased at such rates as may be determined by the <sup>33</sup>[Employees' Insurance Court having jurisdiction.]
- (iv) The amount of dependants' benefit payable under clause (iii) shall not exceed one-half of the amount which would have been payable to the insured person as benefit on permanent total disablement.
- (v) Save as modified by this Act, the obligations and liabilities imposed on an employer by the Workmen's Compensation Act, 1923 (VIII of 1923), shall continue to apply to him.

**54. Medical examination.**—All medical examinations and treatment referred to in the Workmen's Compensation Act, 1923 (VIII of 1923), shall for the purposes of this Act, be carried out by duly appointed medical practitioners.

**55. Review of benefits.**—<sup>34</sup>[(1) Subject to the provisions of this Act, the Corporation may, either of its own motion or on the application of the person receiving the benefit, review the payment of any disablement or dependants' benefit:

Provided that unless otherwise specified in the regulations made in this behalf every application for the review of a disablement benefit shall be accompanied by a certificate of a duly appointed medical officer.]

(2) Subject to the provisions of this Act, <sup>35</sup>[the Corporation] may, on such review as aforesaid, direct that the <sup>35</sup>[disablement or dependants' benefit] be continued, increased, reduced or discontinued.

<sup>33</sup> Subs. by Act 53 of 1951, s. 15.

<sup>34</sup> Subs. *ibid.*, s. 16.

<sup>35</sup> Subs. by Act 53 of 1951, s. 16.

**56. Medical benefit.**—(1) An insured person or (where such medical benefit is extended to his family) a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.

(2) Such medical benefit may be given either in the form of outpatient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) A person shall be entitled to medical benefit during any week for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit <sup>36</sup>[or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations]:

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations.

**57. Scale of medical benefit.**—(1) An insured person and (where such medical benefit is extended to his family) his family shall be entitled to receive medical benefit only of such kind and on such scale as may be provided by the <sup>37</sup>[State] Government or by the Corporation, and an insured person or, where such medical benefit is extended to his family, his family shall not have a right to claim any medical treatment except such as is provided by the dispensary, hospital, clinic or other institution to which he or his family is allotted, or as may be provided by the regulations.

(2) Nothing in this Act shall entitle an insured person and (where such medical benefit is extended to his family) his family to claim reimbursement from the Corporation of any expenses incurred in respect of any medical treatment, except as may be provided by the regulations.

**58. Provision of medical treatment by State Government.**—(1) The <sup>37</sup>[State] Government shall provide for insured persons and (where such benefit is extended to their families) their families in the <sup>37</sup>[State], reasonable medical, surgical and obstetric treatment:

Provided that the <sup>37</sup>[State] Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any <sup>38</sup>[State] is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the <sup>37</sup>[State] Government in such proportion as may be fixed by agreement between them:

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the <sup>37</sup>[State] Government.

(3) The Corporation may enter into an agreement with a <sup>37</sup>[State] Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the <sup>37</sup>[State] Government.

(4) In default of agreement between the Corporation and any <sup>37</sup>[State] Government as aforesaid the nature and extent of the medical treatment to be provided

<sup>36</sup> Snbs. by s. 17, *ibid.*

<sup>37</sup> Subs. by the A. O. 1950.

by the <sup>38</sup>[State] Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the <sup>38</sup>[High Court] <sup>39</sup>[of a State] appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the <sup>38</sup>[State] Government.

**59. Establishment and maintenance of hospitals, etc., by Corporation.—**

(1) The Corporation may, with the approval of the <sup>38</sup>[State] Government, establish and maintain in a <sup>38</sup>[State] such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and (where such medical benefit is extended to their families) their families.

(2) The Corporation may enter into agreement with any <sup>38</sup>[Part B State], local authority, private body or individual in regard to the provision of medical treatment and attendance for insured persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.

**GENERAL**

**60. Benefit not assignable or attachable.—**(1) The right to receive any payment of any benefit under this Act shall not be transferable or assignable.

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

**61. Bar of benefits under other enactments.—**When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment.

**62. Persons not to commute cash benefits.—**Save as may be provided in the regulations no person shall be entitled to commute for a lump sum any periodical payment admissible under this Act.

**63. Persons not entitled to receive benefits in certain cases.—**No person shall be entitled to sickness benefit or maternity benefit, or disablement benefit for temporary disablement in respect of any day on which he works and receives wages.

**64. Recipients of sickness or disablement benefit to observe conditions.—**A person who is in receipt of sickness benefit or disablement benefit (other than benefit granted on permanent disablement)—

- (a) shall remain under medical treatment at a dispensary, hospital, clinic or other institution provided under this Act and shall carry out the instructions given by the medical officer or medical attendant in charge thereof;
- (b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;
- (c) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer, medical attendant or such other authority as may be specified in this behalf by the regulations; and
- (d) shall allow himself to be examined by any duly appointed medical officer or sick visitor or other person authorised by the Corporation in this behalf.

**65. Benefits not to be combined.—**(1) An insured person shall not be entitled to receive for the same period—

- (a) both sickness benefit and maternity benefit; or

<sup>38</sup> Subs. by the A. O. 1950.

<sup>39</sup> Subs. by Act 53 of 1951, s. 18.

- (b) both sickness benefit and disablement benefit for temporary disablement; or
- (c) both maternity benefit and disablement benefit for temporary disablement.

(2) Where a person is entitled to more than one of the benefits mentioned in sub-section (1), he shall be entitled to choose which benefit he shall receive.

**66. Corporation's right to recover damages from employer in certain cases.—**

(1) Where any employment injury is sustained by an insured person as an employee under this Act by reason of the negligence of the employer to observe any of the safety rules laid down by or under any enactment applicable to a factory or establishment or by reason of any wrongful act of the employer or his agent, the Corporation shall notwithstanding the fact that the employer has paid the weekly contributions due under this Act in respect of such insured person be entitled to be reimbursed by the employer or the principal who is liable to pay compensation under section 12 of the Workmen's Compensation Act, 1923 (VIII of 1923), the actuarial present value of the periodical payments which the Corporation is liable to make under this Act.

(2) For the purposes of this Act, the actuarial present value of the periodical payments shall be determined in such manner as may be specified in the regulations.

**67. Corporation's right to be indemnified in certain cases.—**Where an insured person is entitled to receive or to recover (but has not received or recovered), whether from his employer or any other person, compensation or damages under any law for the time being in force in respect of any employment injury caused under circumstances creating a legal liability in some person other than the employer or his agent, the Corporation shall be entitled to be indemnified by the person so liable:

Provided that the Corporation shall not be entitled to be indemnified by an employer who has paid contributions in respect of the employee sustaining the employment injury as an employee under this Act, except in cases covered by section 66.

**68. Corporation's rights where a principal employer fails or neglects to pay any contribution.—**(1) If any principal employer fails or neglects to pay any contribution which under this Act he is liable to pay in respect of any employee and by reason thereof such person becomes disentitled to any benefit or entitled to a benefit on a lower scale, the Corporation may, on being satisfied that the contribution should have been paid by the principal employer, pay to the person the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Corporation shall be entitled to recover from the principal employer either—

<sup>40</sup>[(i) the difference between the amount of benefit which is paid by the Corporation to the said person and the amount of the benefit which would have been payable on the basis of the contributions which were in fact paid by the employer; or]

(ii) twice the amount of the contribution which the employer failed or neglected to pay,

whichever is greater.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

<sup>40</sup> Subs. by Act 53 of 1951, s. 19.

**69. Liability of owner or occupier of factories, etc., for excessive sickness benefit.**—(1) Where the Corporation considers that the incidence of sickness among insured persons is excessive by reason of—

- (i) insanitary working conditions in a factory or establishment or the neglect of the owner or occupier of the factory or establishment to observe any health regulations enjoined on him by or under any enactment, or
- (ii) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary conditions are attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactment,

the Corporation may send to the owner or occupier of the factory or establishment or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure incurred by the Corporation as sickness benefit; and if the claim is not settled by agreement, the Corporation may refer the matter, with a statement in support of its claim, to the appropriate Government.

(2) If the appropriate Government is of opinion that a *prima facie* case for inquiry is disclosed, it may appoint a competent person or persons to hold an inquiry into the matter.

(3) If upon such inquiry it is proved to the satisfaction of the person or persons holding the inquiry that the excess in incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or establishment or the owner of the tenements or lodgings, as the case may be, the said person or persons shall determine the amount of the extra expenditure incurred as sickness benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a Civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

**70. Repayment of benefit improperly received.**—(1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any in his hands.

(2) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(3) The amount recoverable under this section may be recovered as if it were an arrear of land-revenue.

**71. Benefit payable up to and including day of death.**—If a person dies during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased person in writing in such form as may be specified in the regulations or, if there is no such nomination, to the heir or legal representative of the deceased person.

**72. Employer not to reduce wages, etc.**—No employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly reduce the wages of any employee, or except as provided by the regulations, dis-

continue or reduce benefits payable to him under the conditions of his service which are similar to the benefits conferred by this Act.

**73. Employer not to dismiss or punish employee during period of sickness, etc.**—(1) No employer shall dismiss, discharge, or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall he, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

(2) No notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

#### <sup>41</sup>[CHAPTER V-A—TRANSITORY PROVISIONS

**73A. Employer's special contribution.**—(1) For so long as the provisions of this Chapter are in force, every principal employer shall, notwithstanding anything contained in this Act, pay to the Corporation a special contribution (hereinafter referred to as the employer's special contribution) at the rate specified under sub-section (3).

(2) The employer's special contribution shall, in the case of a factory or establishment situate in any area in which the provisions of both Chapters IV and V are in force, be in lieu of the employer's contribution payable under Chapter IV.

(3) The employer's special contribution shall consist of such percentage, not exceeding five per cent. of the total wage bill of the employer, as the Central Government may, by notification in the Official Gazette, specify from time to time:

Provided that before fixing or varying any such percentage the Central Government shall give by like notification not less than two months' notice of its intention so to do and shall in such notification specify the percentage which it proposes to fix or, as the case may be, the extent to which the percentage already fixed is to be varied:

Provided further that the employer's special contribution in the case of factories or establishments situate in any area in which the provisions of both Chapters IV and V are in force shall be fixed at a rate higher than that in the case of factories or establishments situate in any area in which the provisions of the said Chapters are not in force.

(4) The employer's special contribution shall fall due as soon as the liability of the employer to pay wages accrues, but may be paid to the Corporation at such intervals, within such time and in such manner as the Central Government may, by notification in the Official Gazette, specify, and any such notification may provide for the grant of a rebate for prompt payment of such contribution.

*Explanation.*—"Total wage bill" in this section means the total wages which have accrued due to employees in a factory or establishment in respect of such wage periods as may be specified for the purposes of this section by the Central Government by notification in the Official Gazette.

**73B. Special tribunals for decision of disputes or questions under this Chapter where there is no Employees' Insurance Court.**—(1) If any question or dispute arises in respect of the employer's special contribution payable or recoverable under this Chapter and there is no Employees' Insurance Court having juris-

<sup>41</sup> Chapter V-A. ins. by Act 53 of 1951, s. 20.



diction to try such question or dispute, the question or dispute shall be decided by such authority as the Central Government may specify in this behalf.

(2) The provisions of sub-section (1) of section 76, sections 77 to 79 and 81 shall, so far as may be, apply in relation to a proceeding before an authority specified under sub-section (1) as they apply in relation to a proceeding before an Employees' Insurance Court.

**73C. Benefits under Chapter V to depend upon employee's contribution.**—The payment of the employee's contribution for any week in accordance with the provisions of Chapter IV in any area where all the provisions of that Chapter are in force shall for the purpose of Chapter V, have effect as if the contributions payable under Chapter IV in respect of that employee for that week had been paid and shall accordingly entitle the employee as an insured person to the benefits specified in Chapter V if he is otherwise entitled thereto.

*Explanation.*—In the case of an exempted employee, the employee's contribution shall be deemed to have been paid for a week if the Corporation is satisfied that during that week the employer's contribution under Chapter IV would have been payable in respect of him but for the provisions of this Chapter.

**73D. Mode of recovery of employer's special contribution.**—The employer's special contribution payable under this Chapter may be recovered as if it were an arrear of land revenue.

**73E. Power to call for additional information or return.**—Without prejudice to the other provisions contained in this Act, the Corporation may, for the purpose of determining whether the employer's special contribution is payable under this Chapter or for determining the amount thereof, by general or special order, require any principal or immediate employer or any other person to furnish such information or returns to such authority, in such form and within such time as may be specified in the order.

**73F. Power to exempt to be exercised by Central Government alone in respect of employer's special contributions.**—Notwithstanding anything contained in this Act, the Central Government may, having regard to the size or location of, or the nature of the industry carried on in, any factory or establishment or class of factories or establishments, exempt the factory or establishment or class of factories or establishments from the payment of the employer's special contribution under this Chapter and nothing contained in sections 87 to 91 inclusive shall be deemed to authorise any State Government to grant any such exemption.

**73G. Application of certain provisions of this Act to employer's special contribution.**—Save as otherwise expressly provided in this Chapter, the provisions of Chapter IV, section 72 and Chapter VII and any rules and regulations made under this Act shall, so far as may be, apply in relation to the payment or recovery of employer's special contributions, the penalties specified in connection therewith and all other matters incidental thereto as they would have applied in relation to an employer's contribution if this Chapter were not in force and the employer's contribution had been payable under this Act.

**73H. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order notified in the Official Gazette, make such provision or give such direction as appear to it to be necessary for the removal of the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.

**73I. Duration of Chapter V-A.**—The Central Government may, by notification in the Official Gazette, direct that the provisions of this Chapter shall cease

to have effect on such date as may be specified in the notification, not being a date earlier than three months from the date of the notification:

Provided that on the provisions of this Chapter so ceasing to have effect the provisions of section 6 of the General Clauses Act, 1897 (X of 1897), shall apply as if the provisions of this Chapter had then been repealed by a Central Act.]

#### CHAPTER VI—ADJUDICATION OF DISPUTE AND CLAIMS

**74. Constitution of Employees' Insurance Court.**—(1) The <sup>42</sup>[State] Government shall, by notification in the official Gazette constitute an Employees' Insurance Court for such local area as may be specified in the notification.

(2) The Court shall consist of such number of Judges as the <sup>42</sup>[State] Government may think fit.

(3) Any person who is or has been a judicial officer or is a legal practitioner of five years' standing shall be qualified to be a Judge of the Employees' Insurance Court.

(4) The <sup>42</sup>[State] Government may appoint the same Court for two or more local areas or two or more Courts for the same local area.

(5) Where more than one Court has been appointed for the same local area, the <sup>42</sup>[State] Government may by general or special order regulate the distribution of business between them.

**75. Matters to be decided by Employees' Insurance Court.**—(1) If any question or dispute arises as to—

- (a) whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution, or
- (b) the rate of wages or average daily wages of an employee for the purposes of this Act, or
- (c) the rate of contribution payable by a principal employer in respect of any employee, or
- (d) the person who is or was the principal employer in respect of any employee, or
- (e) the right of any person to any benefit and as to the amount and duration thereof, or
- <sup>43</sup>[(ee) any direction issued by the Corporation under section 55 on a review of any payment of disablement or dependants' benefits;]
- (f) the actuarial present value of the periodical payments referred to in section 66, or
- (g) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a person and the Corporation or between an employee and a principal or immediate employer, in respect of any contribution or benefit or other dues payable or recoverable under this Act,

such question or dispute shall be decided by the Employees' Insurance Court in accordance with the provisions of this Act.

(2) The following claims shall be decided by the Employees' Insurance Court namely:—

- (a) claim for the recovery of contributions from the principal employer;

<sup>42</sup> Subs. by the A. O. 1950.

<sup>43</sup> Ins. by Act 53 of 1951, s. 21.

- (b) claim by a principal employer to recover contributions from any immediate employer;
- (c) claim under section 66 or 67 made by the Corporation against the employer or other person liable thereunder;
- (d) claim against a principal employer under section 68;
- (e) claim under section 70 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; and
- (f) any claim for the recovery of any benefit admissible under this Act.

(3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by the Employees' Insurance Court.

**76. Institution of proceedings, etc.**—(1) Subject to the provisions of this Act and any rules made by the <sup>44</sup>[State] Government, all proceedings before the Employees' Insurance Court shall be instituted in the Court appointed for the local area in which the insured person was working at the time the question or dispute arose.

(2) If the Court is satisfied that any matter arising out of any proceeding pending before it can be more conveniently dealt with by any other Employees' Insurance Court in the same <sup>45</sup>[State], it may, subject to any rules made by the <sup>45</sup>[State] Government in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.

(3) The <sup>45</sup>[State] Government may transfer any matter pending before any Employees' Insurance Court in the <sup>45</sup>[State] to any such Court in another <sup>45</sup>[State] with the consent of the <sup>45</sup>[State] Government of that <sup>45</sup>[State].

(4) The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.

**77. Commencement of proceedings.**—(1) The proceedings before an Employees' Insurance Court shall be commenced by application.

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by rules made by the <sup>45</sup>[State] Government in consultation with the Corporation.

**78. Powers of Employees' Insurance Court.**—(1) The Employees' Insurance Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence and such Court shall be deemed to be a Civil Court within the meaning of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

(2) The Employees' Insurance Court shall follow such procedure as may be prescribed by rules made by the <sup>45</sup>[State] Government.

(3) All costs incidental to any proceedings before an Employees' Insurance Court shall, subject to such rules as may be made in this behalf by the <sup>45</sup>[State] Government, be in the discretion of the Court.

(4) An order of the Employees' Insurance Court shall be enforceable as if it were a decree passed in a suit by a Civil Court.

**79. Appearance by legal practitioners, etc.**—Any application, appearance or act required to be made or done by any person to or before an Employees' Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorised in writing by such person or with the permission of the Court, by any other person so authorised.

**80. Benefit not admissible unless claimed in time.**—An Employees' Insurance Court shall not direct the payment of any benefit to a person unless he has made a claim for such benefit in accordance with the regulations made in that behalf, within twelve months after the claim became due:

Provided that if the Court is satisfied that there was reasonable excuse for not making a claim for the benefit within twelve months after it became due, it may direct the payment of the benefit as if the claim had been made in time.

**81. Reference to High Court.**—An Employees' Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

**82. Appeal.**—(1) Save as expressly provided in this section, no appeal shall lie from an order of an Employees' Insurance Court.

(2) An appeal shall lie to the High Court from an order of an Employees' Insurance Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be sixty days.

(4) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 (XL of 1908) shall apply to appeals under this section.

**83. Stay of payment pending appeal.**—Where the Corporation has presented an appeal against an order of the Employees' Insurance Court, that Court may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

#### CHAPTER VII—PENALTIES

**84. Punishment for false statement.**—Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorized by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to three months, or with fine not exceeding five hundred rupees, or with both.

**85. Punishment for failure to pay contributions, etc.**—If any person—

- (a) fails to pay any contribution which under this Act he is liable to pay, or
- (b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, or
- (c) in contravention of section 72 reduces the wages or any privileges or benefits admissible to an employee, or
- (d) in contravention of section 73 or any regulation dismisses, discharges, reduces or otherwise punishes an employee, or
- (e) fails or refuses to submit any return required by the regulations or makes a false return, or
- (f) obstructs any Inspector or other official of the Corporation in the discharge of his duties, or

(g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided,

he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

**86. Prosecutions.**—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner <sup>46</sup>[or of such other officer of the Corporation as may be authorised in this behalf by the Central Government.].

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(3) No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof, within six months of the date on which the offence is alleged to have been committed.

#### CHAPTER VIII—MISCELLANEOUS

**87. Exemption of a factory or establishment or class of factories or establishments.**—The appropriate Government, may, by notification in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment or class of factories or establishments in any specified area from the operation of this Act for a period not exceeding one year and may from time to time by like notification renew any such exemption for periods not exceeding one year at a time.

**88. Exemption of persons or class of persons.**—The appropriate Government may, by notification in the official Gazette and subject to such conditions as it may deem fit to impose, exempt any persons or class of persons employed in any factory or establishment or class of factories or establishments to which this Act applies from the operation of the Act.

**89. Corporation to make representation.**—No exemption shall be granted or renewed under section 87 or section 88, unless a reasonable opportunity has been given to the Corporation to make any representation it may wish to make in regard to the proposal and such representation has been considered by the appropriate Government.

**90. Exemption of factories or establishments belonging to Government or any local authority.**—The appropriate Government may, by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or establishment belonging to the <sup>47</sup>[Government] or any local authority, if the employees in any such factory or establishment are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

**91. Exemption from one or more provisions of the Act.**—The appropriate Government may, with the consent of the Corporation, by notification in the official Gazette, exempt any employees or class of employees in any factory or establishment or class of factories or establishments from one or more of the provisions relating to the benefits provided under this Act.

**92. Power of Central Government to give directions.**—The Central Government may give directions to a <sup>48</sup>[State] Government as to the carrying into execution of this Act in the <sup>48</sup>[State].

<sup>46</sup> Added by Act. 53 of 1951, s. 22.

<sup>47</sup> & <sup>48</sup> Subs. by the A. O. 1950.

**93. Corporation officers and servants to be public servants.**—All officers and servants of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

**94. Contributions, etc., due to Corporation to have priority over other debts.**—There shall be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), <sup>49</sup>[or under any law relating to insolvency in force in a Part B State], or under section 230 of the Indian Companies Act 1913 (VII of 1913), are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability whereof accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

<sup>50</sup>[**94A. Delegation of powers.**—The Corporation, and, subject to any regulations made by the Corporation in this behalf, the Standing Committee may direct that all or any of the powers and functions which may be exercised or performed by the Corporation or the Standing Committee, as the case may be, may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exerciseable by any officer or authority subordinate to the Corporation.]

**95. Power of Central Government to make rules.**—(1) The Central Government may, subject to the condition of previous publication, make rules not inconsistent with this Act for the purpose of giving effect to the provisions thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner in which nominations and elections of members of the Corporation, the Standing Committee and the Medical Benefit Council shall be made;
- (b) the quorum at meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the minimum number of meetings of those bodies to be held in a year;
- (c) the records to be kept of the transaction of business by the Corporation, the Standing Committee and the Medical Benefit Council;
- (d) the powers and duties of the Principal Officers and the conditions of their service;
- (e) the powers and duties of the Medical Benefit Council;
- (f) the procedure to be adopted in the execution of contracts;
- (g) the acquisition, holding and disposal of property by the Corporation;
- (h) the raising and repayment of loans;
- (i) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation;
- (j) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made;
- (k) the bank or banks in which the funds of the Corporation may be deposited, the procedure to be followed in regard to the crediting of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payment may be authorised;

<sup>49</sup> Ins. by Act 53 of 1951, s. 23.

<sup>50</sup> Ins. *ibid.* s. 24.

- (l) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited;
- (m) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged;
- (n) the preparation of budget estimates and of supplementary estimates and the manner in which such estimates shall be sanctioned and published;
- (o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Corporation; and
- (p) any matter which is required or allowed by this Act to be prescribed by the Central Government.

(3) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

**96. Power of State Government to make rules.**—(1) The <sup>51</sup>[State] Government may, subject to the condition of previous publication, make rules not inconsistent with this Act in regard to all or any of the following matters, namely:—

- (a) the constitution of Employees' Insurance Courts, the qualifications of persons who may be appointed Judges thereof, and the conditions of service of such Judges;
- (b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts;
- (c) the fee payable in respect of applications made to the Employees' Insurance Court, the costs incidental to the proceedings in such Court, the form in which applications should be made to it and the particulars to be specified in such applications;
- (d) the establishment of hospitals, dispensaries and other institutions, the allotment of insured persons or their families to any such hospital, dispensary or other institution;
- (e) the scale of medical benefit which shall be provided at any hospital, clinic, dispensary or institution, the keeping of medical records and the furnishing of statistical returns;
- (f) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions;
- (g) the conditions of service of the staff employed at such hospitals, dispensaries and institutions; and
- (h) any other matter which is required or allowed by this Act to be prescribed by the <sup>52</sup>[State] Government.

(2) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

**97. Power of Corporation to make regulations.**—(1) The Corporation may, subject to the condition of previous publication, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (i) the time and place of meetings of the Corporation, the Standing Committee and the Medical Benefit Council and the procedure to be followed at such meetings;
- (ii) the matters which shall be referred by the Standing Committee to the Corporation for decision;
- (iii) the manner in which any contribution payable under this Act shall be assessed and collected;
- (iv) reckoning of wages for the purpose of fixing the contribution payable under this Act;
- (v) the certification of sickness and eligibility for any cash benefit;
- (vi) the method of determining the actuarial present value of periodical payments;
- (vii) the assessing of the money value of any benefit which is not a cash benefit;
- (viii) the time within which and the form in which any claim for a benefit may be made and the particulars to be specified in such claim;
- (ix) the circumstances in which an employee in receipt of disablement benefit may be dismissed, discharged, reduced or otherwise punished;
- (x) the manner in which and the place and time at which any benefit shall be paid;
- (xi) the method of calculating the amount of cash benefit payable and the circumstances in which and the extent to which commutation of disablement and dependants' benefits, may be allowed and the method of calculating the commutation value;
- (xii) the notice of pregnancy or of confinement and notice and proof of sickness;
- (xiii) the conditions under which any benefit may be suspended;
- (xiv) the conditions to be observed by a person when in receipt of any benefit and the periodical medical examination of such persons;
- (xv) the visiting of sick persons;
- (xvi) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates;
- (xvii) the penalties for breach of regulations by fine (not exceeding two days' wages for a first breach and not exceeding three days' wages for any subsequent breach) which may be imposed on employees;
- (xviii) the circumstances in which and the conditions subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted;
- <sup>53</sup>[(xix) the returns to be submitted and the registers or records to be maintained by the principal and immediate employers, the forms of such returns, registers or records, and the times at which such returns should be submitted and the particulars which such returns, registers and records should contain;]



(xx) the duties and powers of Inspectors and other officers and servants of the Corporation;

<sup>54</sup>[(xxi) the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the officers and servants of the Corporation other than the Principal Officer;]

(xxii) the procedure to be followed in remitting contributions to the Corporation; and

(xxiii) any matter in respect of which regulations are required or permitted to be made by this Act;

<sup>55</sup>[(2A) The condition of previous publication shall not apply to any regulations of the nature specified in clause (xxi) of sub-section (2).]

(3) Regulations made by the Corporation shall be published in the Gazette of India and thereupon shall have effect as if enacted in this Act.

**98. Corporation may undertake duties in Part B States.**—[Rep. by the Employees' State Insurance (Amendment) Act, 1951 (LIII of 1951), s. 26.]

**99. Enhancement of benefits.**—At any time when its funds so permit, the Corporation may enhance the scale of any benefit admissible under this Act and the period for which such benefit may be given, and provide or contribute towards the cost of medical care for the families of insured persons.

<sup>56</sup>[**100. Repeals and savings.**—It, immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law corresponding to this Act, that law shall, on such day, stand repealed:

Provided that the repeal shall not affect—

(a) the previous operations of any such law, or

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law; or

(c) any investigation or remedy in respect of any such penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that subject to the preceding proviso anything done or any action taken under any such law shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under this Act.]

#### SCHEDULE I—(See section 39)

1. The amount of weekly contribution payable in respect of an employee shall be calculated with reference to his average daily wages.

<sup>56</sup>[2. The average daily wages shall be:—

(a) in respect of an employee whose wage period is a day, the amount of wages earned during the week divided by the number of days worked in that week;

(b) in respect of an employee employed on the basis of any other wage period, the amount of wages earned in that wage period in which the contribution falls due divided by the number of days worked in such wage period;

(c) in respect of an employee employed on any other basis, the amount calculated on the basis of wages earned for the day on which the contribution falls due or on such other day as may be specified in the regulations in this behalf.

<sup>54</sup> Ins. by Act 53 of 1951.

<sup>55</sup> Ins. *ibid.*, s. 27.

<sup>56</sup> Subs. *ibid.*, s. 28.

*Explanation I*—Subject to any regulations made in this behalf, the term "days worked" means the number of days on which the employee worked for wages

*Explanation II*—Where any night shift continues beyond midnight, the period of the night shift after midnight shall be counted for reckoning the days worked as part of the day preceding

*Explanation III*—Except as provided by regulations wages pay salaries or allowances paid in respect of any period of leave or holidays other than the weekly holidays shall not be taken into account in calculating wages

*Explanation IV*—"Wage period" means the period in respect of which wages are ordinarily payable whether in terms of the contract of employment express or implied, or otherwise ]

3 (a) For the purposes of fixing the amount of weekly contribution payable, employees shall be divided into eight groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2

(b) The employees contribution and employers contribution payable in respect of the group of employees specified in the first column of the Table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof

TABLE

Group of employees	Contribution (recoverable from employees)	Employers' contribution	Contribution (employees' and employer's)
	1	2	3
		Rs. A. P.	Rs. A. P.
1. Employees whose average daily wages are below Re. 1	Nil	0 7 0	0 7 0
2. Employees whose average daily wages are Re. 1 and above but below Rs. 1-8-0	0 2 0	0 7 0	0 9 0
3. Employees whose average daily wages are Rs. 1-8-0 and above but below Rs. 2	0 4 0	0 8 0	0 12 0
4. Employees whose average daily wages are Rs. 2 and above but below Rs. 3	0 6 0	0 12 0	1 2 0
5. Employees whose average daily wages are Rs. 3 and above, but below Rs. 4	0 8 0	1 0 0	1 8 0
6. Employees whose average daily wages are Rs. 4 and above but below Rs. 6	0 11 0	1 6 0	2 1 0
7. Employees whose average daily wages are Rs. 6 and above but below Rs. 8	0 15 0	1 14 0	2 13 0
8. Employees whose average daily wages are Rs. 8 and above	1 4 0	2 8 0	3 12 0

#### SCHEDULE II—(See sections 49, 51, 52 and 53)

##### *Sickness Benefit and Disablement and Dependants' Benefits*

1. The average daily wages of an employee in each of the groups specified in the first column of the table below shall, for the purpose of calculating the sickness benefit and disablement and dependants' benefits be assumed to be the rate specified in the corresponding entry in the second column thereof.

- (c) to each legitimate unmarried daughter, an amount equivalent to two-fifths, of the full rate until she attains fifteen years of age or until marriage, whichever is earlier:

Provided that the Corporation may continue such benefit to any legitimate or adopted son or any legitimate unmarried daughter until he or she attains the age of eighteen years if such son or daughter continues education to the satisfaction of the Corporation:

Provided further that if the total of the dependant's benefits distributed among the widow or widows and <sup>59</sup>[legitimate children or adopted son] of the deceased person as aforesaid <sup>59</sup>[exceeds at any time the full rate], the share of each of the dependants shall be proportionately <sup>59</sup>[altered], so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

5. In case the deceased person does not leave a widow or legitimate child, dependants' benefit at such rates as may be determined by the <sup>59</sup>[Employees' Insurance Court having jurisdiction], shall be payable as follows:—

- (a) to a parent or grand parent, for life;
- (b) to any other male dependant, until he attains fifteen years of age;
- (c) to any other female dependant, until she attains fifteen years of age or until marriage, whichever is earlier, or if widowed until she attains fifteen years of age.

## EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1950

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<sup>59</sup> Subs. by Act 53 of 1951, s. 29.

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FORMS.

EMPLOYEES' STATE INSURANCE (CENTRAL) RULES, 1950<sup>1</sup>

In exercise of the powers conferred by section 95 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

## RULES

## CHAPTER I

1. **Short title and extent.**—(1) These Rules may be called the Employees' State Insurance (Central) Rules, 1950.

<sup>2</sup>[(2) They extend to the whole of India including Chandernagore, except the State of Jammu and Kashmir.]

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

- (1) "the Act" means the Employees' State Insurance Act, 1948 (XXXIV of 1948);
- (2) "Chairman" means the Chairman of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be;
- (3) "Form" means a form appended to these Rules;
- (4) "the Fund" means the Employees' State Insurance Fund;
- (5) "Government Securities" means Government Securities as defined in the Indian Securities Act, 1920;
- (6) "immovable property" includes land, benefits to arise out of land, things attached to the earth, or permanently fastened to anything attached to the earth;
- (7) "movable property" means property of every description except immovable property;

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 212 dated the 22nd June, 1950.

<sup>2</sup> Subs. by Ministry of Labour Notification No. S.R.O. 391 dated the 12th May, 1952.

- (8) "State Medical Commissioner" means a duly registered medical practitioner including a medical officer in the service of a State Government appointed as such by the Corporation;
- (9) "year" shall mean the financial year, that is to say, the period beginning from the first of April and ending with the thirty-first of March of the year following.

<sup>3</sup>[2A. **Election of members of Parliament to the Corporation.**—Each house of Parliament shall elect, in such manner as the Chairman of the Council of State or the Speaker of the House of People, as the case may be, may direct a person from amongst its members to be a member of the Corporation.]

**3. Election of members to the Standing Committee.**—(1) The Chairman of the meeting shall, at a meeting of the Corporation at which it is proposed to elect members of the Standing Committee under clause (c) of section 8, invite members to propose names from among members of the Corporation belonging to the group from which election is to be made. The names proposed shall be duly seconded by another member of the Corporation.

(2) If the number proposed from any group for election does not exceed the number of vacancies to be filled from that group, the persons whose names have been so proposed shall be declared elected to the Standing Committee.

(3) If the number proposed for election from a group exceeds the number of vacancies to be filled therefrom, each member of the Corporation present at the meeting shall be given a ballot paper containing the names of all the candidates proposed and he shall be required to vote thereon for as many candidates from the group as there are vacancies to be filled up. Not more than one vote shall be given in favour of any one candidate. If any member votes for more candidates than there are vacancies in the group or gives more than one vote in favour of any one candidate, all his votes shall be deemed to be invalid.

(4) The persons getting the highest number of votes shall be declared by the Chairman, at the meeting or as soon thereafter as possible, as duly elected to the Standing Committee:

Provided that where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared to be elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Chairman and in such manner as he may determine.

(5) If any question shall arise as to the validity of any election it shall be referred to the Central Government whose decision in the matter shall be final.

**4. Restoration to membership.**—(1) A member of the Corporation, the Standing Committee or the Medical Benefit Council, who ceases to be a member by virtue of section 12, shall be informed of such cessation by a letter sent to him by registered post. The letter shall also indicate that if he desires restoration to membership, he may apply therefor within thirty days from the receipt of the letter.

(2) The application under sub-rule (1) shall indicate the reasons which prevented him from attending three consecutive meetings and shall be addressed to the Chairman concerned.

(3) The application shall be placed before the next meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and if a majority of the members present at such meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, he shall be restored to membership immediately after a resolution to that effect is adopted.

(4) The benefit of restoration to membership as provided for in this rule shall be allowed to a member only once during any one term as a member.

## CHAPTER II

**5. Fees and allowances of members.**—(1) A non-official member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, residing at the place where a meeting is held shall be allowed the actual expenditure incurred on conveyance subject to a maximum of ten rupees for each day on which he attends one or more meetings.

<sup>3</sup> Added by Ministry of Labour Notification No. S.R.O. 103 dated the 31st Dec., 1952.

(2) A non-official member not resident at the place where a meeting is held, shall be allowed travelling and daily allowances in respect of the meetings which he attends at the following rates, namely:—

(i) The travelling allowance shall be—

<sup>4</sup>[(a) in respect of journeys by air, the actual fare paid plus incidental expenses on the same scale as the Central Government may from time to time fix for its own officers of the first grade.]

<sup>5</sup>[(b) in respect of journeys by rail, a single fare of the class by which he travels on payment of full fare, plus 12 pies per mile, from and to the usual place of business or from and to the place from or to which the journey is actually performed by the member, whichever is less, the rate of 12 pies per mile being subject to the same modifications as the Central Government may make from time to time in this regard in respect of its own officers of the first grade.]

Air-conditioned accommodation will not be treated as one of the classes of accommodation for purposes of rail travel, but a member will have the option to travel by air-conditioned accommodation, by paying from his own pocket, the difference between the fares for the air-conditioned and the highest class accommodation provided on the train by which he travels.

NOTE.—Return tickets should be purchased whenever they are available, and when it is expected that the return journey will be performed before the expiry of the period for which return tickets are available.]

(c) in respect of journeys by road performed otherwise than by a means of locomotion provided at the expense of Government or the Corporation, at the rate of mileage allowance admissible to officers of the first grade in the service of the Central Government. When the journey is performed by road between places connected by railway, mileage will be limited to what would have been admissible had the member travelled by rail in the ordinary way.

(ii) The daily allowance shall be at the maximum rate admissible to the officers of the first grade in the service of the Central Government and shall be payable in respect of each day on which the member attends one or more meetings <sup>6</sup>[and also in respect of the days intervening between a meeting of the Standing Committee and that of the Corporation if the latter meeting is held within two days of the meeting of the former and if the member continues to reside at the place of the meeting during the period.]

Provided that the daily allowance shall also be admissible at the full rate for the day immediately preceding the date of commencement of a meeting if the member arrives at the place of the meeting before the afternoon of such preceding day, and also for the day immediately following the last day of the meeting if the member leaves the place of the meeting after the forenoon of such following day.

<sup>7</sup>[NOTE (1).—Travelling and daily allowance shall be allowed if a member certifies that he has not drawn any travelling or daily allowance from any other source in respect of the journey and halt for which the claim is made. A member who possesses a free pass provided to him in his capacity as a member of Parliament, will be expected to use the pass while travelling on business of the Corporation also.]

(2) The daily and travelling allowance shall also be payable in respect of the meetings of any sub-committee set up by the Corporation, the Standing Committee or the Medical Benefit Council.

**6. Minimum number of meetings.**—(1) The Corporation shall meet at least twice each year.

(2) The Standing Committee and the Medical Benefit Council shall meet at least four times each year.

(3) The Chairman may, whenever he thinks fit, and shall, within fifteen days of the receipt of a requisition in writing from not less than one-half of the members of the body concerned, call a meeting thereof.

<sup>4</sup> Substituted for the original sub-clause by the Ministry of Labour Notification No. S.R.O. 1171 dated the 9th May, 1956.

<sup>5</sup> Substituted by Notification No. S.R.O. 1564 dated the 30th June, 1956.

<sup>6</sup> Inserted, *ibid.*

<sup>7</sup> Substituted, *ibid.*

(4) Any requisition made under this rule shall specify the object of the meeting proposed to be called.

**7. Roll of members.**—(1) The Corporation shall maintain a Roll of Members separately for the Corporation, the Standing Committee and the Medical Benefit Council. The name and the address of each member shall be stated therein.

(2) If a member changes his address, he shall notify such change to the Corporation for the correction of his address in the Roll.

**8. Notice of meeting and list of business.**—(1) The Chairman shall decide the date, time and place of every meeting. A notice of not less than twenty-one days from the date of issue shall ordinarily be given to every member, of each meeting of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be. Such notice may be sent to every member by post or in any other suitable manner. A list of business proposed to be transacted shall, after approval by the Chairman, be posted along with the notice. Brief notes on each item of the agenda shall be sent along with the agenda or as soon thereafter as possible. If it is necessary to convene an emergency meeting, a reasonable notice thereof shall be given to every member.

(2) No business other than that for which a meeting is convened shall be considered at that meeting, except with the permission of the Chairman of the meeting.

**9. Chairman of the meeting.**—The Chairman, or in his absence the Vice-Chairman, if any, of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, shall preside at the meetings. In the event of the absence of both the Chairman and the Vice-Chairman, if any, the members present may elect one from amongst themselves to preside.

**10. Quorum.**—No business shall be transacted at any meeting unless a quorum of eleven members in the case of the Corporation, five members in the case of the Standing Committee and seven members in the case of the Medical Benefit Council, is present:

Provided that if at any meeting there is not a sufficient number of members present to form a quorum, the Chairman of the meeting may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending.

**11. Disposal of business.**—Any business which requires consideration by the Corporation, the Standing Committee or the Medical Benefit Council shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon if supported by not less than a two-thirds majority of the members of the body concerned. In other cases or where the Chairman so decides, the question shall be considered at a duly convened meeting.

**12. Proceedings of the meetings.**—(1) The proceedings of each meeting, showing *inter alia* the names of the members present thereat, shall be forwarded to each member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, and to the Central Government as soon after the meeting as possible and in any case not later than four weeks after the meeting.

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

**13. Minute Books.**—(1) The minutes of a meeting of the Corporation, the Standing Committee and the Medical Benefit Council shall be kept in separate books (hereinafter referred to as Minute Books) and shall be signed by the Chairman of the meeting at which the proceedings are confirmed.

(2) A copy of the minutes so confirmed shall be forwarded to the Central Government within fifteen days from the date of such confirmation.

(3) The Minute Books shall be kept open at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Corporation.

(4) The Minute Book of the Medical Benefit Council shall be kept at the principal office of the Corporation during office hours on working days for inspection free of charge by any member of the Medical Benefit Council.

**14. Powers and duties of the Medical Benefit Council.**—The powers and duties of the Medical Benefit Council shall be—

- (1) to advise the Corporation in regard to the constitution, setting up duties and powers of the Regional and Local Medical Benefit Councils;
- (2) to make recommendations to the Corporation in regard to—
  - (i) the scale and nature of medical benefit provided at hospitals, dispensaries, clinics and other institutions and the nature and the extent of the medicines, staff and equipment which shall be maintained at such institutions and the extent to which these fall short of the desired standard;
  - (ii) the medical formulary for use in connection with the medical benefit provided under the Act;
  - (iii) medical certification, including the procedure and the forms for such certification, statistical returns, registers and other medical records;
  - (iv) measures undertaken for the improvement of the health and welfare of insured persons, and the rehabilitation and re-employment of insured persons, disabled or injured;
- (3) to advise the Corporation on any matter relating to the professional conduct of any medical practitioner employed for the purpose of providing medical benefit under the Act.

### CHAPTER III

**15. Salaries, allowances and conditions of service of the Principal Officers.**—(1) The Principal Officers shall receive such salaries as may be determined by the Central Government.

(2) The Principal Officers shall receive dearness allowance, compensatory (city allowance), house rent and other allowances at such rates and such medical benefits as may be sanctioned for the officers of the Central Government on similar salaries in the localities where they are stationed.

(3) The Principal Officers shall be entitled to leave and leave salary under the model leave terms which may, from time to time, be made applicable to the Central Government servants on contract on similar salaries.

(4) The Principal Officers shall be entitled to travelling allowances for journeys performed in the service of the Corporation on the scale provided for in the rules supplementary to the Fundamental Rules applicable to the class of officers to which the Central Government may declare them to correspond in status.

(5) The Principal Officers shall be entitled to the benefit of the Employees' State Insurance Corporation Provident Fund established under rule 47.

(6) Notwithstanding anything contained in sub-rules (1) to (5), the pay, allowances and other conditions of service of a Principal Officer, if he is a person already in the service of the Government, shall be such as may be determined by the Central Government in each individual case.

**16. Powers and duties of the Director General.**—(1) The powers and duties of the Director General shall be—

- (i) to act as the Chief Executive Officer of the Corporation;
- (ii) to co-ordinate, supervise and control the work of the other Principal Officers;
- (iii) to convene, under the orders of the Chairman, meetings of the Corporation, the Standing Committee and the Medical Benefit Council in accordance with the Act and the Rules and to implement the decisions reached at the meetings;
- (iv) to enter into contracts on behalf of the Corporation in accordance with the Act or the Rules or Regulations made thereunder, or the general or special instructions of the Corporation or the Standing Committee;
- (v) to furnish all returns and documents required by the Act or the Rules to the Central Government and to correspond with the Central Government and the State Governments upon all matters concerning the Corporation; and
- (vi) to undertake such other duties and to exercise such other powers as may from time to time be entrusted or delegated to him.

(2) The Director General may, with the approval of the Standing Committee, by general or special order, delegate any of his powers or duties under the Rules or the Regulations or under any resolution of the Corporation or the Standing Committee, as the case may be, to any person subordinate to him. The exercise or discharge of any of the powers



or duties so delegated shall be subject to such restrictions, limitations and conditions, if any, as the Director General may, with the approval of the Standing Committee impose.

**17. Powers and duties of the Insurance Commissioner.**—The powers and duties of the Insurance Commissioner shall be subject to the control of the Director General be—

- (i) to arrange, subject to the control of the Director General, for the establishment of Insurance and Regional offices for the administration of the Act;
- (ii) to arrange for inspection of subordinate offices;
- (iii) to investigate all complaints referred to by the Regional Boards and the Local Committees; and
- (iv) to undertake such other duties and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

**18. Powers and duties of the Medical Commissioner.**—(1) The powers and duties of the Medical Commissioner shall be subject to the control of the Director General be—

- (i) to supervise, direct and co-ordinate the working of the medical organisation of the Corporation;
- (ii) to advise on the lay-out, planning and construction of hospitals and dispensaries and in regard to sickness recording;
- (iii) to examine the records of sickness and accident and to suggest measures for improving health conditions in areas where the Act is in force;
- (iv) to conduct such medical research as may be authorised by the Corporation on the advice of the Medical Benefit Council;
- (v) to arrange for the inspection of hospitals, dispensaries, clinics and other institutions where medical benefit under the Act is provided by the State Governments, the Corporation or the employers;
- (vi) to advise regarding the adequacy of medical treatment provided by the factories or establishments applying for exemption;
- (vii) to investigate complaints made by insured persons with regard to medical benefit;
- (viii) to devise forms and registers for keeping the records of insured persons by institutions where medical benefit under the Act is provided; and
- (ix) to undertake such other duties and exercise such other powers as may, from time to time, be entrusted or delegated to him.

(2) The duties and powers of the Medical Commissioner may be delegated to the State Medical Commissioner with the approval of the Director General subject to such general or special directions as may be issued from time to time by the Medical Commissioner with the approval of the Director General.

**19. Powers and duties of the Chief Accounts Officer.**—The powers and duties of the Chief Accounts Officer, shall be subject to the control of the Director General be—

- (i) to maintain the accounts of the Corporation and to arrange for the compilation of accounts by the collection of returns from the Centres and Regions;
- (ii) to prepare the budget of the Corporation;
- (iii) to arrange for internal audit of the accounts of the Centres and Regions and of the receipts and payments thereat;
- (iv) to make recommendations for the investment of the funds of the Corporation; and
- (v) to undertake such other duties and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

**20. Powers and duties of the Actuary.**—The powers and duties of the Actuary shall be subject to the control of the Director General be—

- (i) to collect, compile and analyse statistics relating to the working of the Corporation;
- (ii) to advise the Director General on all actuarial and statistical problems relating to the working of the Corporation;
- (iii) to detect and prevent excessive claims; and
- (iv) to undertake such other duties and exercise such other powers as may, from time to time, be entrusted or delegated to him.

#### CHAPTER IV

**21. Bank or banks for depositing the Fund.**—(1) All moneys accruing or payable to the Fund shall be received by such officers of the Corporation as may be authorised by it in this behalf. The amount so received shall as soon as practicable be acknowledged by a

receipt in Form 1 and deposited in the Reserve or the Imperial Bank of India or such scheduled bank, as may be approved for this purpose by the Central Government, to the account of the Fund:

Provided that any moneys may also be paid directly to the account of the Fund in any such bank.

(2) The receipt book in Form 1 shall be numbered serially by machine and the unused forms shall be kept in the custody of the Chief Accounts Officer or such other officer of the Corporation as may be authorised by the Corporation in this behalf.

**22. Procedure for crediting moneys to the Banks.**—(1) All moneys accruing or payable to the Corporation shall be credited to the approved bank and not utilised directly for any purpose.

(2) The bank or banks shall be required at the end of every calendar month to furnish to the Corporation or such officer as may be authorised by it in this behalf, a statement of the amounts deposited in and withdrawn from the Fund during the month. These statements shall be examined by the Director General before the expiry of a period of two months following the period to which the statements relate.

**23. Purpose and manner of payment out of the Fund.**—(1) The accounts of the Fund shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Corporation.

(2) No payment shall be made by the bank or banks out of the Fund except on a cheque signed by such officers as may be authorised under sub-rule (1).

(3) Any payment in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way unless specifically authorised by the Standing Committee:

Provided that payment of salaries to the employees of the Corporation drawing a basic salary not exceeding rupees two hundred and fifty a month may be made in cash.

(4) No payment shall be made out of the Fund unless the expenditure is covered by a current budget grant:

Provided that in the absence of a current budget grant, the Corporation may authorise payments either generally or for any particular case:

Provided further that the payment of benefits to insured persons under the provisions of the Act and of the pay and allowances of duly sanctioned posts shall not be withheld for want of a sanctioned budget grant.

**24. Circumstances in which cheques may be drawn.**—Before any person authorised under rule 23 signs a cheque, he shall satisfy himself that the sum for which the cheque is drawn is—

(i) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget grant; and

(ii) required for any payment referred to and specified under section 28:

Provided that in the absence of a current budget grant, the Corporation may authorise payments either generally or for any particular case:

Provided further that the payment of benefits to insured persons under the provisions of the Act and of the pay and allowances of duly sanctioned posts shall not be withheld for want of a sanctioned budget grant

**25. Acquisition of property.**—Subject to the provisions of rule 29 and such conditions as may, from time to time, be laid down by the Corporation, the Director General may, for the purposes of this Act, acquire on behalf of the Corporation movable or immovable property;

Provided that sanction of the Standing Committee shall be required for the exchange of any immovable property, for the taking of any property on lease for a term exceeding twelve months, or for the acceptance of any gift or bequest of property burdened by an obligation.

**NOTE.**—The sanction of the Standing Committee may be given either generally or for any class of cases or specially for any particular case.

**26. Disposal of property.**—Subject to the provisions of rule 29 and such conditions as may be laid down by the Corporation from time to time, the Director General may—

(i) dispose of by sale or exchange, any movable property belonging to the Corporation, the value of which does not exceed ten thousand rupees in each case, or grant for any term not exceeding twelve months a lease of any immovable property belonging to the Corporation;

- (ii) with the sanction of the Standing Committee, lease, sell or otherwise dispose of any movable or immovable property belonging to the Corporation.

NOTE.—The sanction of the Standing Committee may be given either generally or for any class of cases or specially for any particular case.

**27. Investment, transfer or realisation of the Fund.**—(1) All moneys belonging to the Fund which are not immediately required for expenses properly defrayable under the Act, may, subject to the approval of the Standing Committee, be invested by the Director General—

- (i) in Government securities including Treasury Deposit Receipts; or
- (ii) in securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882); or
- (iii) as fixed deposit in the Reserve or the Imperial Bank of India.

(2) Moneys belonging to the Fund shall not be invested in any other manner except with the prior approval of the Central Government.

(3) Any investment made under this rule may, subject to the provisions of sub-rules (1) and (2), be varied, transposed or realised from time to time:

Provided, however, that if such variation, transposition or realisation is likely to result in a loss, the prior approval of the Central Government shall be obtained.

(4) The Central Government may, at any time, direct the vacation in part or in whole, or prohibit investment, in any security or class of securities or any land or building.

(5) All dividends, interest or other sums received in respect of any investment shall, as soon as possible after receipt, be paid into or credited to the account of the Fund.

(6) The expenses of or the loss, if any, arising from any investment shall be charged to the Fund and the profit, if any, from the sale of any investment shall also accrue to the Fund.

(7) The approval under sub-rules (1) and (2) of the Standing Committee or the Central Government, as the case may be, may be given with or without any conditions either generally or in any particular case.

**28. Raising and repayment of loans.**—(1) (i) The Corporation may, in pursuance of a resolution passed at a meeting of the Standing Committee, and with the prior approval of the Central Government, raise loans for the purposes of the Act.

(ii) In particular and without prejudice to the generality of the foregoing power, the Corporation may raise loans—

- (a) for the acquisition of land and/or the raising buildings thereon; or
- (b) to repay a loan raised under this rule; or
- (c) for any other purpose approved by the Central Government.

(2) All loans under this rule shall be obtained—

- (i) from the Central Government on such rates of interest and such terms as to the time and method of repayment as the Central Government may specify; or
- (ii) with the approval of the Central Government, from the Reserve or the Imperial Bank of India or any other scheduled bank.

NOTE.—The approval of the Central Government may be given, with or without any conditions, either generally or for any particular case.

(3) Where a loan is obtained from the Reserve or the Imperial Bank of India as provided in clause (ii) of sub-rule (2), the Corporation may, with the approval of the Central Government, grant mortgages of all or any of the property vested in it for securing the repayment of the sums so advanced, with interest.

(4) All payments due from the Corporation for interest on and repayment of loans shall be made in such manner and at such times as may have been agreed upon:

Provided that the Corporation may apply any sums which can be so applied, in repaying any amount due in respect of the principal of any loan although the repayment of the same may not be due.

(5) No expenditure incurred out of a loan shall be charged by the Corporation to capital, except with the previous sanction (or under the direction) of the Central Government.

(6) The Corporation shall submit to the Central Government an annual statement by the thirtieth of April each year showing the loans raised and repayments made during the preceding year.

**29. Procedure for execution of contracts.**—(1) The Corporation may enter into and perform all such contracts as it may consider necessary or expedient for carrying into effect the provisions of the Act.

(2) Every contract made under or for any purpose of the Act shall be made on behalf of the Corporation—

(i) by the Director General; or

(ii) subject to such conditions as it may specify, by such member or officer of the Corporation as it may authorise;

Provided that the prior sanction of the Standing Committee shall be obtained in respect of any contract involving an expenditure exceeding ten thousand rupees.

(3) Every contract entered into by any person as provided in sub-rule (2) shall be entered into in such manner and form as would bind him if it were made on his own behalf and may in like manner and form be varied or discharged:

Provided that the common or official seal, as the case may be, of the Corporation shall be affixed to every contract for amounts exceeding one thousand rupees.

**30. Seal.**—(1) The common seal of the Corporation shall remain in the custody of the Director General and shall not be affixed to any instrument except in the presence of the Director General or two members of the Standing Committee, and the Director General or the said two members shall sign the contract in token of the fact that the same was sealed in his or their presence.

(2) The Corporation shall have for use at each of such other of its offices as it may specify, an official seal which shall be a facsimile of the common seal of the Corporation with the addition of the name of the office where it is to be used.

(3) The official seal shall not be affixed to any instrument except in the presence of such person or persons as the Standing Committee may authorise in this behalf and such person or persons shall sign the instrument in token of the fact that the same was sealed in his or their presence.

(4) An instrument to which an official seal is duly affixed shall bind the Corporation as if it had been sealed with the common seal of the Corporation.

## CHAPTER V

**31. Preparation and submission of annual budget estimates.**—(1) The budget estimates of the Corporation for each financial year beginning on the first of April and ending on the thirty-first of March next shall be prepared by the Chief Accounts Officer in such form as the Central Government may, from time to time, direct and shall be submitted with his recommendations by the Director General to the Standing Committee for approval at a meeting of the Standing Committee to be held before the <sup>8</sup>[first of February] of the preceding year.

(2) A copy of the budget estimates shall be sent to each member of the Standing Committee and of the Corporation at least seven clear days before the meeting of the Standing Committee or the Corporation at which these estimates are to be considered.

(3) The Standing Committee shall consider and approve the budget estimates with such changes as it may consider necessary.

(4) The budget estimates as approved by the Standing Committee shall be placed before a meeting of the Corporation to be held before the <sup>9</sup>[twentieth of February] of the preceding year.

(5) The budget estimates as passed by the Corporation shall be authenticated by affixing the common seal of the Corporation and shall be submitted to the Central Government under section 32, not later than the <sup>10</sup>[first of March] next following.

(6) It shall be open to the Central Government to make such alterations in the budget estimates as may be considered necessary before according approval.

(7) The budget estimates as finally adopted by the Corporation and as approved by the Central Government shall be placed before the Parliament by the administrative Ministry concerned and published in the official Gazette as soon as possible after the Central Government budget estimates have been approved by the Parliament.

<sup>8</sup> Substituted for the words "first of October" by the Ministry of Labour Notification No. S.R.O. 1173 dated the 15th May, 1956.

<sup>9</sup> Substituted for the words "twentieth of October," *ibid.*

<sup>10</sup> Substituted for the words "first of November," *ibid.*

served with the certificate of the Standing Committee; or within such longer period as may be allowed by the Central Government; any such sum, if not so paid, shall be recovered as if it were an arrear of land-revenue.

(2) Any sum or part of a sum so paid or recovered, the certificate in respect of which is set aside or modified, shall, as the case may require, be wholly or partly refunded to the person who paid it.

#### CHAPTER VI

**47. Establishment of Provident Fund.**—The Corporation shall establish, maintain and contribute to a Provident Fund called the Employees State Insurance Corporation Provident Fund (hereinafter referred to as the Provident Fund) in respect of its employees other than those whose services are placed at the disposal of the Corporation by the Central or State Government.

**48. Administration of the Provident Fund.**—The Provident Fund shall be administered by the Standing Committee of the Corporation or by any other Committee approved by it for the purpose and subject to such conditions as it may deem fit to impose.

**49. Framing of Provident Fund Regulations.**—The Corporation may, subject to the previous approval of the Central Government, make regulations to provide for all other matters incidental to or necessary for the Provident Fund.

#### FORMS

##### FORM 1—(See Rule 21)

<p>Book Number                      Receipt Number</p> <p>Received from... ..</p> <p>.....the sum of Rs.....</p> <p>(in words)... ..on</p> <p>account of.....Rs.....</p> <p style="text-align: center;">Chief Accounts Officer — Authorised Officer —</p> <p>Entered in Cash Book Page Number</p> <p style="text-align: right;">Accountant.</p>	<p>Book Number                      Receipt Number</p> <p>Received from.....</p> <p>.....the sum of Rs.....</p> <p>(in words)... ..on</p> <p>account of.....Rs.....</p> <p style="text-align: center;">Chief Accounts Officer — Authorised Officer —</p> <p>The Employees' State Insurance Corporation.</p>
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### EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS, 1950

#### Arrangement of Paragraphs

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2. Definitions.
3. The manner in which the Corporation may exercise its powers.
4. Contribution and Benefit periods.
5. Allotment of Contribution and Benefit periods.
6. Meetings of the Corporation, the Standing Committee and the Medical Benefit Council.
7. Decision by majority.
8. Mode of exercising vote.
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##### CHAPTER II—COLLECTION OF CONTRIBUTIONS, ETC.

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13. Preparation of Contribution Card.
14. Declaration Forms to be sent to Regional Office.
15. Allotment of Insurance Number.
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19. Period for which Contribution Card valid.
20. Fresh Contribution Card.
21. Custody of Contribution Cards.
22. Inspection of Contribution Cards by Inspector.
23. Inspection of Contribution Cards by employees.
24. Loss of Contribution Card.
25. Refund for Contribution Stamps.
26. Contribution Cards to be sent to Regional Office.
27. [Deleted].
28. Preparation of Contribution Cards by the Corporation.
29. Payment of Contribution by Stamps.
30. Contribution Stamp Book.
31. Time for payment of contribution.
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## EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS, 1950<sup>1</sup>

In exercise of the powers conferred by section 97 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Employees' State Insurance Corporation is pleased to make the following Regulations, the same having been previously published as required by sub-section (1) of the said section, namely:—

## EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS

### CHAPTER I—GENERAL

1. **Short title and extent.**—(1) These Regulations may be called the Employees' State Insurance (General) Regulations, 1950.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In these Regulations, unless the context otherwise requires—

- (a) "Act" means the Employees' State Insurance Act, 1948 (XXXIV of 1948);
- (b) "Appointed Day" means with reference to any area, factory or establishment, the day from which the whole of Chapters IV and V of the Act apply to such area, factory or establishment, as the case may be;
- (c) "Appropriate Office", "appropriate Local Office" or "appropriate Regional Office" shall mean with reference to any action taken under these Regulations, such office of the Corporation as may be specified for that purpose under a general or special order of the Corporation;
- (d) "Central Rules" means the rules made by the Central Government under section 95 of the Act;
- (e) "Contribution Card" means a card issued in respect of an insured person for the purpose of affixing contribution stamps, or recording otherwise the contribution paid, in respect of such person under the Act;
- (f) "Contribution Stamp" means a stamp issued under the authority of the Corporation for the purpose of paying contributions under the Act and these Regulations; and includes for the purpose of these Regulations a token stamp issued to indicate that a contribution would have been payable in respect of an exempted employee if the provisions of Chapter V-A of the Act were not in force;
- (g) "Employer" means the principal employer as defined in the Act;
- (h) "Employer's Code Number" means the distinguishing number allotted to an employer by the appropriate Regional Office;
- (i) "Factory or Establishment" means a factory or establishment to which the Act applies;
- (j) "Form" means a form appended to these regulations;
- (k) "Identity Card" means a card issued by the appropriate Regional Office to an insured person for identification for the purposes of the Act, the Rules and these Regulations;
- (l) "Inspector" means a person appointed as such by the Corporation under section 45 of the Act;

<sup>1</sup> These Regulations were published under the Ministry of Labour (Employees' State Insurance Corporation) Notification No. RS/5/48 dated the 17th October, 1950. These Regulations have been modified up to 15th of March, 1955.



- (m) "Instructions" means instructions or orders issued by the Corporation or by such officer or officers of the Corporation as may be authorised by the Corporation in this behalf;
- (n) "Insurance Medical Officer" means a medical practitioner appointed as such to provide medical benefit and to perform such other functions as may be assigned to him and shall be deemed to be a duly appointed medical practitioner for the purposes of Chapter V of the Act;
- (o) "Insurance Number" means a number allotted by the appropriate Regional Office to an employee for the purposes of the Act, the Rules and these Regulations;
- (p) "Local Office" and "Regional Office" shall mean, according to the context, such sub-ordinate office of the Corporation, set up at such place and with such jurisdiction and functions as the Corporation may, from time to time determine;
- (q) "Local Office Manager" means a person appointed by the Corporation as such or the officer-in-charge of a Local Office;
- (r) "State Rules" means the rules made by a State Government under section 96 of the Act;
- (s) "Regional Director" means a person appointed by the Corporation as such for a specified region;
- (t) "Registered Midwife" means a person who is registered as a midwife under any law in force in any State providing for registration of nurses and midwives;
- (u) "Rules" means rules made by the Central or a State Government under the Act;
- (v) "Specified" means specified by instructions issued from time to time by the Corporation or any authorised officer;
- (w) "Year" means a calendar year except when specifically stated otherwise;
- (x) All other words and expressions have the meanings respectively assigned to them in the Act or the Rules, as the case may be.

**3. The manner in which the Corporation may exercise its powers.**—(1) Where a regulation empowers the Corporation to specify, prescribe, provide, decide or determine anything or to do any other act, such power may be exercised by a resolution of the Corporation or subject to the provisions of section 18 of the Act by a resolution of the Standing Committee:

Provided that the Corporation or the Standing Committee may delegate any of the powers under these regulations to a sub-committee or to such officers of the Corporation as it may specify in that behalf:

Provided further that no power shall be delegated under this regulation which under the Act is required to be exercised by the Corporation only.

(2) Any appointment to be made by the Corporation under these regulations, shall be made by the Director General or by such other officers as may be authorised in this behalf by the Standing Committee.

**4. Contribution and Benefit Periods.**—(1) A "Contribution Period" shall be one of the following periods:—

Beginning with the mid-night of the last Saturday in		Ending with the mid-night of the last Saturday in next	Hereinafter called
(i) January	...	... July	} Set A
(ii) July	...	... January	
(iii) March	...	... September	} Set B
(iv) September	...	... March	
(v) May	...	... November	} Set C
(vi) November	...	... May	

(2) "Benefit Periods" corresponding to the Contribution period in the preceding sub-regulation shall be as follows:—

Contribution Period		Corresponding Benefit Period		
From the mid-night of the last Saturday in	To the mid-night of the last Saturday in next	From the mid-night of the last Saturday in	To the mid-night of the last Saturday in next	
(i) January	July	October	April	} 'A'
(ii) July	January	April	October	
(iii) March	September	December	June	} 'B'
(iv) September	March	June	December	
(v) May	November	February	August	} 'C'
(vi) November	May	August	February	

**5. Allotment of Contribution and Benefit Periods.**—(1) The appropriate Regional Office or, in accordance with the instructions issued in this behalf by the Corporation, the employer shall allot to each person, who is an employee within the meaning of the Act on the *appointed day*, one of the sets A, B or C of the *contribution* periods; and the first contribution period and the corresponding benefit period for such a person shall commence and end on such dates as the Director General may determine for the set of contribution periods allotted to him.

(2) In the case of a person who becomes an employee within the meaning of the Act, for the first time after the *appointed day*, the set of contribution periods to be allotted to him shall be as indicated below and the first contribution period in respect of the person shall commence from the midnight of night of the Saturday immediately preceding the day on which he becomes an employee and shall end when the then current contribution period, belonging to the set allotted to him, ends:—

Date of commencing work as above falling in the calendar months	Set	Contribution period	Corresponding benefit period
(i) February—March	A	January—July	October—April
(ii) April—May	B	March—September	December—June
(iii) June—July	C	May—November	February—August
(iv) August—September	A	July—January	April—October
(v) October—November	B	September—March	June—December
(vi) December—January	C	November—May	August—February

**6. Meetings of the Corporation, the Standing Committee and the Medical Benefit Council.**—The meetings of the Corporation, the Standing Committee and the Medical Benefit Council shall be held in accordance with the Central Rules at such time and place as may be fixed by the Chairman concerned.

**7. Decision by majority.**—Every matter coming up for decision before a meeting of the Corporation, the Standing Committee or the Medical Benefit Council shall be decided by a majority of persons present and voting at the meeting and in case of equality of votes the Chairman of the meeting shall have an additional casting vote.

**8. Mode of exercising vote.**—The votes shall be taken by show of hands and the names of persons voting in favour and against any proposition shall be recorded only if any member present requests the Chairman to do so.

**9. Matters to be brought before the Corporation.**—In addition to the matters which are, under any specific provision of the Act or the Central Rules, required to be placed before the Corporation, the following matters shall be referred to the Corporation for its decision:—

- (a) regulations under section 97 and amendments thereto before final publication;
- (b) any measures proposed under section 19 of the Act;
- (c) any proposal to extend medical benefit to families under sub-section (2) of section 46;
- (d) any dispute proposed to be referred to arbitration under sub-section (4) of section 58;
- (e) any proposal to set up hospitals under section 59;
- (f) any proposal to grant exemption under section 91;
- (g) any proposal to enhance benefits under section 99;
- (h) any other matter which the Corporation or its Chairman may direct the Standing Committee or the Director General to place before the Corporation.

**10. Regional Boards.**—(1) A Regional Board may be set up for such area as may be considered appropriate by the Chairman of the Corporation and shall consist of the following members, namely:—

- (a) the Minister for Labour of the State in which the Regional Headquarters is situated, *ex-officio*—Chairman;
- (b) the Minister for Health of the State in which the Regional Headquarters is situated, or where the portfolios of Labour and Health are held by the same Minister, the Deputy Health Minister, if any, *ex-officio*, or where there is no such Deputy Health Minister, a person nominated by the Minister of Health—Vice-Chairman;
- (c) one representative each of the States included in the area to be nominated by the State Governments concerned;
- (d) the Chief Administrative Medical Officer of each of the States included in the area—*ex-officio*;
- (e) one representative each of employers and employees from each of the States in the area to be nominated by the Chairman of the Corporation, in consultation with such organisations of the employers and the employees as may be recommended for the purpose by the State Governments concerned;
- (f) members of the Corporation, other than the Chairman and the Vice-Chairman and officials nominated by the Central Government, under clause (c) of section 4 of the Act, residing in the area—*ex-officio*:

Provided that where the Chairman of the Corporation so considers it to be expedient, he may nominate such additional representatives of employers and employees, not exceeding 3 from each side, with a view to providing for the adequate representation of important organisations not included in the nominations of the State Governments concerned, and to maintaining the parity between the number of representatives of such employers and employees.

(2) A Regional Board may, if it considers it desirable, co-opt a member of the medical profession in the area and the person so co-opted shall continue to be a member thereof during the pleasure of the Regional Board.

(3) The Regional Director or Officer-in-Charge of the Regional Office shall be the Secretary of the Board.

(4) (i) Save as expressly provided in this regulation, the term of office of the members of the Regional Board referred to in clauses (e) and (f) of sub-regulation (1), shall be two years commencing from the date on which their nomination is notified, provided that the members of the Regional Board, shall, notwithstanding the expiry of the said period, continue to hold office until the nomination of their successors is notified.

(ii) Save as expressly provided in this regulation, the members of the Regional Board referred to in clause (c) of sub-regulation (1) shall hold office during the pleasure of the State Government nominating them.

(iii) A member of the Regional Board referred to in clause (g) of sub-regulation (1) shall cease to hold office when he ceases to be a member of the Corporation or ceases to reside in that area.

(iv) Any member referred to in clause (i) of this sub-regulation nominated to fill a casual vacancy shall hold office for the remainder of the term of office of the member in whose place he is nominated.

(v) An outgoing member shall be eligible for renomination.

(5) A member of the Regional Board referred to in clause (e) or (f) of sub-regulation (1) above, may resign his office by notice in writing to the Chairman of the Corporation, through the Chairman, Regional Board, and his seat shall fall vacant on the acceptance of the resignation.

(6) (i) A member of the Regional Board referred to in clause (e) or (f) or sub-regulation (1) shall cease to be a member of the Board if he fails to attend three consecutive meetings thereof provided that his membership may be restored by the Chairman of the Corporation on his being satisfied as to the unavoidable nature of the circumstances which led to his non-attendance.

(ii) When any person nominated to represent an employers' or employees' organisation on the Regional Board has ceased to represent such organisation, the Chairman of the Corporation may, by notification in the Gazette of India, declare that such person shall cease to be a member thereof with effect from such date as may be specified therein.

(7) The members of the Regional Board shall receive such fees and allowances as may be prescribed by the Central Government for members of the Corporation.

(8) A member shall be disqualified for being nominated or for being a member of the Regional Board:—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Regulations he has been convicted of an offence involving moral turpitude.

(9) The Secretary shall, with the approval of the Chairman, fix the date, time and place of, and also draw up the Agenda for, every meeting. Notice of not less than ten days from the date of posting shall ordinarily be given to every member for each meeting, provided that if it is necessary to convene an emergency meeting, a reasonable notice thereof shall be given to every member. No matter other than that included in the Agenda shall be considered except with the permission of the Chairman.

(10) No business shall be transacted at any meeting unless there is a quorum of not less than one-third of the number of the members on the Board; provided that if at any meeting, sufficient number of members are not present to form a quorum, the Chairman may adjourn the meeting to a date not later than seven days from the date of original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present.

(11) All matters shall be decided by a majority of persons present and voting and in case of equality of votes, the Chairman shall have a casting vote or a second vote.

(12) The Chairman or in his absence the Vice-Chairman of the Regional Board shall preside at the meetings. In the event of the absence of both the Chairman and the Vice-Chairman the members present may elect one from amongst themselves to preside.

(13) (i) The minutes of each meeting showing inter-alia the names of the members present there-at shall be forwarded to all members of the Regional Board as soon after the meeting as possible and in any case not later than fifteen days from the date of the meeting.

(ii) The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modifications as may be considered necessary at the meeting, at which the minutes are confirmed.

(14) A Regional Board shall perform the following functions in respect of the Region for which it is set up:—

(a) such administrative and/or executive functions as may, from time to time, be entrusted or delegated to it by a resolution, by the Corporation or the Standing Committee.

(b) To make recommendations from time to time in regard to changes which may in its opinion be advisable in the Act, Rules and Regulations, and forms and procedure to be followed in the running of the Scheme.

(c) To refer such complaints as it may consider necessary to the Director General with its recommendations.

(d) To advise the Corporation on such matters as may be referred to it for advice by the Standing Committee or the Director General.

(15) (i) If in the opinion of the Corporation, the Regional Board persistently makes default in performing the duties imposed on it by or under this regulation or abuses its

powers, the Corporation may by notification in the Gazette of India supersede the Regional Board.

(ii) Upon the publication of a notification under clause (i) above superseding the Regional Board, all the members of the Regional Board shall from the date of such publication be deemed to have vacated their offices.

(iii) When the Regional Board has been superseded the Corporation may—

- (a) immediately constitute a new Regional Board in accordance with this Regulation; or
- (b) appoint such agency for such period as it may think fit to exercise the powers and perform the functions of the Regional Board and such agency shall be competent to exercise all powers and perform all the functions of the Regional Board.

**10-A. Local Committees.**—(1) A Local Committee may be set up for such area as may be considered appropriate by the Regional Board and shall consist of the following members, namely:—

- (a) a Chairman to be nominated by the Chairman, Regional Board, who shall be an official of the Corporation or of the State in which the area is situated;
- (b) an official of the State to be nominated by the State Government;
- (c) the Administrative Medical Officer-in-charge of the Scheme in the area concerned, *ex-officio*, or any other medical officer nominated by him;
- (d) such number, not being less than two nor more than four, of representatives of employers in the area as may be considered appropriate by the Chairman, Regional Board, to be nominated by him, in consultation with such employers' organisations as may be recommended for the purpose by the State Government;
- (e) an equal number of representatives of employees in the area to be nominated by the Chairman, Regional Board, in consultation with such organisations of employees as may be recommended for the purpose by the State Government;
- (f) an official of the Corporation to be nominated by the Director General, who shall also act as Secretary to the Committee:

Provided that where the Chairman, Regional Board, so considers it to be expedient, he may nominate such additional representatives of employers and employees, not exceeding two from each side, with a view to providing for the adequate representation of important organisations not included in the nominations of the State Government and to maintaining the parity between the number of representatives of such employers and employees:

Provided further that in any area in which medical care is provided through a panel system, a local committee may co-opt a member representing the local Insurance Medical Practitioners.

(2) (i) The term of office of the members of a local committee nominated under clauses (d) and (e) of sub-regulation (1) shall be two years, commencing from the date on which their nomination is notified, provided that such members, shall, notwithstanding the expiry of the said period, continue to hold office until the nomination of their successors is notified.

(ii) The members of a local committee nominated under clauses (b), (c) and (f) of sub-regulation (1) shall hold office during the pleasure of the authority nominating them.

(3) A member of a local committee may resign his office by notice in writing to the Chairman, Regional Board, and his seat shall fall vacant on the acceptance of the resignation.

(4) (i) A member of a local committee shall cease to be a member of the committee if he fails to attend three consecutive meetings thereof provided that his membership may be restored by the Chairman, Regional Board, on being satisfied as to the unavoidable nature of the circumstances which led to his non-attendance.

(ii) Where in the opinion of the State Government any person nominated to represent employers or employees on a local committee has ceased to represent such employers or employees, the Chairman, Regional Board, may declare that such person shall cease to be a member thereof with effect from such date as may be specified by him.

(5) The members of the Committee shall receive such fees and allowance as may be specified by the Central Government.

(6) The Secretary, shall, in consultation with the Chairman, fix the date, time and place of, and also draw up the Agenda, for every meeting. Notice of not less than seven days shall ordinarily be given to every member for such meeting. No matter other than that included in the Agenda shall be considered except with the permission of the Chairman.

(7) No business shall be transacted at any meeting of a committee unless there is a *quorum* of not less than one-third of the number of the members of the Committee.

(8) All matters at a meeting of a local committee shall be decided by a majority of persons present at the meeting and voting, and in case of equality of votes, the Chairman shall have a casting vote or a second vote.

(9) A local committee shall perform the following functions in respect of the area for which it is set up, namely:

- (a) to discuss local problems in regard to the Employees' State Insurance Scheme so as to secure its efficient working with the full co-operation of all parties concerned and to make recommendations;
- (b) to refer such complaints as it may consider necessary to the Regional Director concerned, or in the case of complaints concerning medical benefit, to the State Government or such authority as that Government may nominate for the purpose; and
- (c) to advise the Corporation or the Regional Board concerned on such matters as may be referred to it for advice.

#### CHAPTER II—COLLECTION OF CONTRIBUTIONS, ETC.

**11. Declaration by persons in employment on appointed day.**—The employer in respect of a factory or an establishment shall require every employee in such factory or establishment to furnish and such employee shall on demand furnish to him either before or on the appointed day correct particulars required for the purpose of Form 1 (hereinafter referred to as the Declaration Form). Such employer shall enter the particulars in the Declaration Form and obtain the signature or the thumb impression of such employee and also complete the form as indicated thereon. The temporary identification certificate duly completed shall thereafter be detached from the form and handed over to the employee.

**12. Declaration by persons engaged after the appointed day.**—(1) The employer in respect of a factory or an establishment shall, before taking any person into employment in such factory or establishment after the appointed day, require such person (unless he can produce an Identity Card or other document in lieu thereof issued to him under these Regulations) to furnish and such person shall on demand furnish to him correct particulars required for the Declaration Form. Such employer shall enter the particulars in the Declaration Form and obtain the signature or the thumb impression of such person and also complete the form as indicated thereon. The temporary identification certificate duly completed shall be detached from the form and handed over to the person after he has been taken into employment.

(2) Where an Identity Card is produced under sub-regulation (1), the employer shall make relevant entries thereon.

**13. Preparation of Contribution Card.**—The employer shall prepare a Contribution Card in Form 2, in respect of every employee in his employment on the appointed day or who is taken into employment after that day, including those who produce an Identity Card and in respect of whom no fresh Declaration Form is prepared.

**14. Declaration Forms to be sent to appropriate Office.**—The employer shall send to the appropriate Regional Office by registered post or messenger, all Declaration Forms prepared under these Regulations together with a return in duplicate in Form 3 on or before the Saturday following the end of the week in which the particulars for the Declaration Forms were furnished.

**15. Allotment of Insurance Number.**—On receipt of the return required under Regulation 14, the appropriate Regional Office shall promptly allot an Insurance Number to each person in respect of whom the Declaration Form has been received unless it finds that the person had already been allotted an Insurance Number. The Insurance Number shall be communicated to the employer and shall be entered by the employer on the Contribution Card of the person.

**16. The Corporation to receive assistance from employers.**—An employer shall render all necessary assistance which the Corporation may require in connection with the registration of the employees and specially for photographing such employees and affixing the photographs to the Identity Cards.

**17. Identity Cards.**—The appropriate Regional Office shall arrange to have an Identity Card prepared in Form 4 for each person in respect of whom an Insurance Number is allotted and shall send all such Identity Cards to the employer. Such employer shall obtain the signature or thumb impression of the employee on the Identity Card and shall, after making relevant entries thereon, deliver the Identity Card to the employee and obtain a receipt therefor.

**18. Loss of Identity Card.**—In case of loss, defacement or destruction of an Identity Card, the insured person shall report the matter to the appropriate Local Office, and the Corporation may issue a duplicate copy of the Identity Card on payment of a fee of two rupees.

**19. Period for which Contribution Card valid.**—A Contribution Card issued under these Regulations shall be current till the end of the contribution period in respect of the person to whom it relates.

**20. Fresh Contribution Card.**—Every employer shall on or before the expiration of the period of currency of a Contribution Card prepare in respect of the employee to whom the card relates a fresh Contribution Card in Form 2 for the next contribution period.

**21. Custody of Contribution Cards.**—The employer shall retain the Contribution Cards in respect of the employees in his factory or establishment and be responsible for the custody thereof so long as such cards are not disposed of in accordance with the provisions of these Regulations.

**22. Inspection of Contribution Cards by Inspector.**—An employer being in possession of any Contribution Card shall produce it for inspection at any reasonable time when required to do so by an Inspector or by any other official of the Corporation authorised by it, and, if so required, shall deliver the Contribution Card to the Inspector or official who may, if he thinks fit, retain it. The Inspector or the official shall give a receipt in Form 5 for a Contribution Card retained by him. The employer shall prepare immediately another Contribution Card in respect of the person whose card has been retained by the Inspector or the official and shall enter on the fresh card the particulars of the stamps on the card given to the Inspector or the official.

**23. Inspection of Contribution Cards by employees.**—Every employer having the custody of the Contribution Card of an employee shall give him a reasonable opportunity to inspect his card, if he so desires; provided that no person shall be entitled by virtue of this provision to inspect his Contribution Card more than once in any calendar month or except during such reasonable hours as may be fixed by the employer for the purpose.

**24. Loss of Contribution Card.**—Where the Contribution Card of any person while in the custody of an employer is destroyed or lost or is defaced in any material particular, the employer shall forthwith report the destruction, loss or defacement of the Contribution Card to the appropriate Regional Office and shall forthwith prepare a new Contribution Card in respect of such person and arrange for affixing thereon the contribution stamps which should have been affixed up-to-date, or for recording the particulars regarding contributions paid in cash up-to-date.

**25. Refund for Contribution Stamps.**—The Corporation may, subject to satisfactory evidence being produced, and subject to such other conditions as it may lay down, grant a refund for contribution stamps which were affixed to a card destroyed, lost or defaced.

**26. Contribution Cards to be sent to Regional Office.**—An employer, being in possession of a Contribution Card in respect of any person, shall send it by registered post or messenger, together with a return in duplicate in Form 6 to the appropriate Regional office—

- (a) within 7 days of the date on which he comes to know of the death of such person;
- (b) within 7 days of the date of receipt of a requisition in that behalf from the appropriate Regional Office;
- (c) within 28 days of the termination of the contribution period to which it relates.

**27. Deleted.**

**28. Preparation of Contribution Cards by the Corporation.**—Notwithstanding anything contained in these Regulations the Corporation may, after intimation to the employer, prepare and issue Contribution Cards for any contribution period in respect of any person to whom the Act applies, and where it does so the employer shall not issue any Contribution Card in respect of such person and such period.

**29. Payment of Contribution by Stamps.**—Every contribution payable under the Act, shall, except as otherwise provided herein, be paid by affixing contribution stamps on the Contribution Card of the employee in the space indicated for that purpose upon the Card. The contribution stamps shall be of such shape and design as the Corporation may, from time to time determine, and shall be sold in such manner and at such agencies as the Corporation may notify from time to time:

Provided that in the case of an exempted employee in respect of whom contribution would have been payable if the provisions of Chapter V-A of the Act had not been in force, the fact that such contribution would have been so payable shall be indicated by

affixing a token stamp on the contribution card of that employee in the space provided for the purpose.

**30. Contribution Stamp Book.**—Every employer shall keep a 'Contribution Stamp Book' in a specified form in which shall be entered all purchases and utilisations of contribution stamps by the employer, and such book shall be open to inspection by an Inspector or any other official of the Corporation authorised by it.

**31. Time for payment of Contribution.**—An employer who is liable to pay contribution in respect of any employee shall pay those contributions within the following periods:—

- (a) Within 21 days of the last day of the wage period in which the contribution falls due;
- (b) Within 14 days of the termination of employment, irrespective of whether the employment is terminated with or without notice;
- (c) Within 21 days after the termination of the contribution period in respect of every employee,

whichever period is earlier:

Provided that, in the case of an exempted employee the token stamp in respect of any week shall be affixed within such time as the contribution in respect of that week would have been payable if the provisions of Chapter V-A of the Act had not been in force.

*Explanation*—For the purpose of this Regulation, the expression "wage period" shall have the meaning assigned to it in Schedule I to the Act.

**32. Register of employees.**—(i) Every employer shall maintain a register showing the following particulars in respect of each wage period in respect of every employee in his factory or establishment:—

- (a) Name;
- (b) Insurance No.;
- (c) Occupation,
- (d) Department and shift, if any;
- (e) Wage group in Schedule I to the Act to which the employee belongs in respect of that wage period;
- (f) Number of contribution weeks for which contribution fell due in the wage period;
- (g) Total contribution under the Act for the wage period; and
- (h) Employee's share of the contribution:

Provided that the employer shall be deemed to have complied with this regulation sufficiently if in any register maintained by him the additional particulars required under this regulation are also shown.

(ii) Every employer shall preserve every register maintained under this regulation after it is filled for a period of five years from the date of the last entry therein.

**33. Other modes of payment of Contribution.**—Subject to the directions of the Standing Committee, the Director General may, if he thinks fit and subject to such terms and conditions as he may impose, approve of any arrangement, including payment in cash, whereby contributions are paid at times or in a manner other than those specified in these regulations and such arrangements may include provision for the payment to the Corporation of such fees as may be determined by him to represent the estimated additional expenses to the Corporation, and may require such deposit of money by way of security as he may determine.

**34. Cancellation of Contribution Stamps.**—(i) An employer shall, immediately after affixing a contribution stamp to any Contribution Card, cancel the stamp by writing in ink, or stamping with a metallic die with black indelible ink across the face of the stamp, the date upon which it is affixed, the employer's code number and such other particulars, if any, as the Corporation may specify, and save as expressly provided in these regulations, no other writing or mark and no perforation shall be made on a Contribution Card or a contribution stamp.

(2) An employer may, if he thinks fit, inscribe upon the Contribution Card of an employee, the number of that employee upon the pay-list or in the books of the employer.

**35. Reasons for non-payment of contributions.**—Where no contribution is payable or in the case of an exempted employee so long as Chapter V-A of the Act is in force where no token stamp is affixed in respect of a week or weeks in any contribution period, the reason for non-payment or non-affixation shall be clearly indicated in writing in the space provided for affixing stamps or recording contributions.



**36. Employment for part of a week.**—Where an employee is employed by an employer for part of a week and where such employee was not employed earlier during that week in any factory or establishment the contribution in respect of such week shall fall due on the last day of employment by such employer in that week.

**37. Employment by two or more employers successively in any week.**—Where an employee is employed by two or more employers successively in any week, the first employer employing him in that week shall be treated as his employer for the purposes of the provisions of the Act and the regulations relating to contributions, and the contribution in respect of such week shall fall due on the last day of employment by the first employer during that week.

**38. Scheme by joint employers.**—Where an employee is ordinarily employed by two or more employers in a week, the employers of such an employee may, if they think fit, submit to the Corporation a scheme for the payment of contributions in respect of such employee and the Corporation may, if it is satisfied that the scheme is such as will secure the due payment of the contributions, approve such a scheme subject to such terms and conditions as it may think necessary:

Provided that if no such scheme is submitted to or approved by the Corporation, the Corporation may specify that any one of such employers shall be treated as the employer for the purposes of the provisions of the Act and the regulations relating to contributions, and in such a case the contribution for any week shall fall due on the last day of the week on which an employee was employed by the employer so specified.

**39. Reckoning of wages of employee employed by two or more employers in the same week.**—Where an employee is employed by an employer for only a part of the week, or where an employee is employed by two or more employers in a week, only the wages payable to him for the days upto and including the day on which the contribution falls due for that week, shall be taken into account in reckoning wages for the purposes of determining the average daily wages of the employee for that week.

**40. Refund of Contribution erroneously paid.**—(1) Any contribution paid by a person under the erroneous belief that the contributions were payable by that person under that Act may be refunded without interest by the Corporation to that person, if application to that effect is made in writing before the commencement of the benefit period corresponding to the contribution period in which such contribution was paid.

(2) Where any contribution has been paid by a person at a rate higher than that at which it was payable the excess of the amount so paid over the amount payable may be refunded without interest by the Corporation to that person, if application to that effect is made before the commencement of the benefit period corresponding to the contribution period in which such contribution was paid.

(3) In calculating the amount of any refund to be made under this Regulation there may be deducted the amount, if any, paid to any person by way of benefit on the basis of the contribution erroneously paid and for the refund of which the application is made.

(4) Where the whole or part of the amount of any contribution referred to in sub-regulations (1) and (2), was recovered from an immediate employer or deducted from the wages of an employee by the Principal employer, he shall, on getting the refund of the amount from the Corporation, be liable to pay back the amount so recovered or deducted to the person from whom the amount was so recovered or deducted.

(5) Applications for refund under this Regulation shall be made in such form and in such manner and shall be supported by such documents as the Director General may, from time to time, determine.

**41. Allowance for destroyed Contribution Stamps.**—Subject to such conditions as the Corporation may lay down and to the production of such evidence by way of affidavit or otherwise as the Corporation may require, allowance may be made by the Corporation for a contribution stamp which has been inadvertently and undesignedly destroyed, spoiled or rendered unfit for use and has not in the opinion of the Corporation been affixed to any material, provided that the application for relief is made within six months after the contribution stamp has been destroyed, spoiled or rendered useless.

**42. Nature of Allowance.**—In a case in which allowance is made for destroyed, spoiled or misused contribution stamps, the Corporation may give in lieu thereof other contribution stamps of the same denomination and value, or if necessary and if it thinks proper, contribution stamps of any other denomination to the same amount in value, or, in its discretion, the same value in money deducting therefrom one anna per rupee as the cost of production and sale of such stamps.

**43. Unused Contribution Stamps.**—Where any person is possessed of a contribution stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Corporation shall, repay to him the value of the contribution stamp in money, upon his delivering up the contribution stamp to be cancelled, and proving to the satisfaction of the Corporation that it was purchased by him from some person duly appointed to sell and distribute contribution stamps within the period of two years next preceding the application and with a *bona fide* intention to use it.

### CHAPTER III—CASH BENEFITS

#### CLAIMS

**44. Claim for benefits.**—Every claim for a benefit payable under the Act shall be made in writing, in accordance with these Regulations, to the appropriate Local Office on the form appropriate for the purpose of the benefit for which the claim is made, or in such other manner as the appropriate office may, subject to its being in writing, accept as sufficient in the circumstances of any particular case or class of cases. Assistance for filling in the form of claim in case of insured persons who cannot do so themselves shall be provided at the Local Offices of the Corporation.

**45. When claim becomes due.**—A claim for any benefit under the Act shall for the purposes of section 80 of the Act, become due on the following days:—

- (a) for sickness benefit or for disablement benefit for temporary disablement for any period, on the date of the issue of the medical certificate in respect of such period; provided that in cases where a waiting period is required the due date shall be deferred by the number of days of such waiting period;
- (b) for maternity benefit, on the date of issue, in accordance with these Regulations, of the certificate of expected confinement or on the day six weeks preceding the expected date of confinement so certified, whichever is later or, if no such certificate is issued, on the date of confinement;
- (c) for disablement benefit for permanent disablement, on the date on which an insured person is declared as permanently disabled in accordance with these Regulations; and
- (d) for dependants' benefit, on the date of the death of the insured person in respect of whose death the claim for such benefit arises or the date from which a beneficiary becomes entitled to a claim, as the case may be.

**46. Availability of claim forms.**—Claim forms shall be available to intending claimants from such persons and such offices of the Corporation as it may appoint or authorise for that purpose, and shall be supplied free of charge.

**47. Claim on wrong form.**—Where a claim for any benefit has been made on an approved form other than the form appropriate to the benefit claimed, the Corporation may treat the claim as if it was made on the appropriate form; provided that the Corporation may in any such case require the claimant to complete the appropriate form.

**48. Evidence in support of claim.**—Every person who makes a claim for any benefit shall in addition to the medical certificate and other forms specifically required under these Regulations, furnish such other information and evidence for the purpose of determining the claim as may be required by the appropriate office, and, if reasonably so required, shall for that purpose attend at such office or place as the appropriate office may direct.

**49. Defective claim.**—If, in the absence of due signature or of due certification, a claim is defective on the date of its receipt by an office of the Corporation, the office of the Corporation may in its discretion, refer the claim to the claimant and if the form is returned duly signed and/or certified within three months from the date on which it was so referred, the office may treat the claim as if it had been duly made in the first instance.

**50. Claim for inappropriate benefit.**—Where it appears that a person who has made a claim for any benefit payable under the Act, may be entitled to a benefit other than that which he has claimed, any such claim may be treated as a claim in the alternative for that other benefit.

**51. Authority for certifying eligibility of claimants.**—The authority which is to certify the eligibility of claimants shall be the appropriate Local Office, in respect of maternity and temporary disablement benefits and the appropriate Regional Office, in respect of permanent disablement benefits.

**52. Benefits when payable.**—(1) Any benefit payable under the Act shall be paid—

- (a) in the case of sickness benefit not later than 7 days;

- (b) in the case of the first payment in respect of maternity benefit or temporary disablement benefit, not later than one month;
- (c) in the case of the first payment in respect of permanent disablement or dependants' benefits, not later than six months;

after the claim therefor together with the relevant medical or other certificates and any other documentary evidence which may be called for under these Regulations has been furnished to the appropriate office.

(2) Second and subsequent payments in respect of any maternity, temporary disablement, permanent disablement or dependants' benefit shall be paid along with the first payment in respect thereof, or within the calendar month following the month to the whole or part of which they relate, whichever is later subject to production of any documentary evidence which may be required under these Regulations.

(3) Where a benefit payment is not made within the time limits specified in sub-regulations (1) and (2) above, it shall be reported to the Insurance Commissioner and shall be paid as soon as possible.

(4) Benefits under the Act shall be paid in cash at a local Office or at the option of the claimant and subject to deduction of the cost of remittance by means of postal money orders or other orders payable through a post office, or by any other means which the appropriate office may in the circumstances of any particular case consider appropriate:

Provided that the Corporation may waive the deduction of the cost of remittance in such cases as the Director General may, from time to time, specify.

(5) Where the payment of a benefit is to be made at a Local Office, such office may insist upon the production of the Identity Card or other document issued in lieu thereof in respect of the insured person.

#### CERTIFICATION AND CLAIMS FOR SICKNESS AND TEMPORARY DISABLEMENT

**53. Evidence of sickness and temporary disablement.**—Every insured person, claiming sickness benefit or disablement benefit for temporary disablement, shall furnish evidence of sickness or temporary disablement in respect of the days of his sickness or temporary disablement by means of a medical certificate given by an Insurance Medical Officer in accordance with these Regulations in the form appropriate to the circumstances of the case:

Provided that the Corporation may accept any other evidence of sickness or temporary disablement if in its opinion the circumstances of any particular case so justify.

**54. Persons competent to issue medical certificate.**—No medical certificate under these Regulations shall be issued except by the Insurance Medical Officer to whom an insured person has been allotted or by an Insurance Medical Officer attached to a dispensary, hospital, clinic or other institution to which an insured person is allotted and such Insurance Medical Officer shall examine and if in his opinion the condition of the insured person so justifies, issue to such insured person free of charge, any medical certificates reasonably required by such insured person under or for the purposes of the Act or any other enactment or these Regulations:

Provided that an Insurance Medical Officer may issue a medical certificate under these Regulations to an insured person who is not allotted to him or to the dispensary, hospital, clinic or other institution to which he is attached, if such officer is satisfied that in the circumstances of any particular case the insured person cannot reasonably be expected to get medical benefit from the Insurance Medical Officer or the dispensary, hospital, clinic or other institution to which such insured person has been allotted; and such certificate also shall be issued free of charge:

Provided further that an insured person shall not be granted a medical certificate unless he produces to the Insurance Medical Officer his Identity Card or such other "documents", as under these Regulations, may have been issued in lieu thereof.

**55. Medical Certificate.**—The appropriate form of a medical certificate shall be filled in ink by the Insurance Medical Officer in his own hand-writing and shall contain a concise statement of the disease or disablement which in the opinion of the Insurance Medical Officer necessitates abstention from work on medical grounds or renders the person temporarily incapable of work. The statement of the disease or disablement in the medical certificate shall specify the nature thereof as precisely as the Insurance Medical Officer's knowledge of the condition of the insured person at the time of the examination permits.

**56. Time of granting medical certificate.**—(a) An Insurance Medical Officer shall give the medical certificate to an insured person at the time of the examination to which it relates; where he is prevented from so doing he shall send the certificate to the insured person within twenty-four hours thereafter.

(b) No further medical certificate relating to the same examination shall be issued, except where a duplicate of such certificate is required, in which case it shall be issued free of charge and clearly marked "Duplicate".

**57. Medical Certificate on first examination.**—Where the examination is the first examination in respect of a spell of sickness or a spell of temporary disablement, the medical certificate shall be in the form of a first certificate (Form 8) and shall be only in respect of the date of examination:

Provided that where, in the opinion of the Insurance Medical Officer, the insured person is likely to become fit to resume work on a date not later than the third day after the date of examination, the first certificate may be issued in respect of the entire spell of sickness or temporary disablement, and, in such a case, it shall specify the date on which the insured person will, in his opinion, be fit to resume work; such a certificate shall, notwithstanding anything contained in the Regulations, be also treated as a final certificate.

**58. Final medical certificate.**—If at the date of the examination to which a medical certificate other than a first certificate relates, the insured person in the opinion of the Insurance Medical Officer is, or will become on a date not later than the third day after that date, fit to resume work, that certificate shall be in the form of a final certificate. (Form 9.)

**59. Intermediate certificates.**—If the final certificate is not issued within seven days of the date of the first certificate, an insured person shall, except where the case is covered by regulation 61, submit certificates in the form of intermediate certificates (Form 10) at intervals of not more than seven days each, commencing from the date of the first certificate.

**60. Final medical certificate before commencing work for wages.**—Every insured person shall obtain a medical certificate in the form of a final certificate before he takes up any work for wages.

**61. Intermediate certificate for a longer period.**—Where temporary disablement or sickness has continued for not less than twenty-eight days and the Insurance Medical Officer is satisfied that such disablement or sickness is likely to continue for a long period and that, owing to the nature of the disablement or sickness examination and treatment at intervals of more than one week till be sufficient, the insured person may, unless otherwise directed by the appropriate office, furnish medical certificates in the form of special intermediate certificates (Form 11) at intervals of such longer periods not exceeding four weeks as may be specified by the Insurance Medical Officer.

**62. Certified sickness.**—Sickness in respect of any periods shall be deemed to be duly certified for the purposes of section 48 of the Act, provided that medical certificates in respect of such periods are issued in accordance with these regulations and such certificate is submitted to the appropriate Local Office by post or otherwise within fourteen days of the date of its issue.

**63. Form of Claim for sickness or temporary disablement.**—An insured person intending to claim sickness benefit or disablement benefit for temporary disablement shall submit to the appropriate Local Office by post or otherwise, a claim for benefit in one of the Forms 12, 13 and 14, appropriate to the circumstances of the case together with the appropriate medical certificate.

**64. Failure to submit medical certificate.**—If a person who intends to claim sickness benefit or disablement benefit for temporary disablement fails to submit to the appropriate Local Office by post or otherwise the first medical certificate or any subsequent medical certificate within a period of three days from the date of issue of such certificate, he shall not be eligible for that benefit in respect of any period (i) in the case of a first certificate, more than three days before the date on which the certificate is submitted to the appropriate Local Office; (ii) in the case of a subsequent certificate, more than fourteen days before the date on which such subsequent certificate is submitted to the appropriate Local Office:

Provided that the appropriate Regional Office may relax all or any of the provisions of this regulation in any particular case, if it is satisfied that the delay in submitting a certificate was due to *bona fide* reasons.

#### DISABLEMENT BENEFIT

**65. Notice of accident.**—(i) Every insured person who sustains personal injury caused by accident arising out of and in the course of his employment in a factory or establishment shall give notice of such injury either in writing or orally, as soon as practicable after the happening of the accident:

Provided that any such notice required to be given by an insured person may be given by some other person acting on his behalf.

(ii) Every such notice shall be given to the employer or to a foreman or to other official under whose supervision the insured person is employed at the time of the accident or any other person designated for the purpose by the employer and shall contain the appropriate particulars.

(iii) Any entry of the appropriate particulars of the accident made in a book kept for that purpose in accordance with the next following regulation shall, if made as soon as practicable after the happening of the accident by the insured person or by some other person acting on his behalf, be sufficient notice of the accident for the purposes of these Regulations.

(iv) In this Regulation and the next following Regulation, the expression 'appropriate particulars' means the particulars indicated below:—

- (a) Full name, Insurance Number, sex, age, address, occupation, department and shift of the injured person;
- (b) Date and time of accident;
- (c) Place where accident happened;
- (d) Cause and nature of injury;
- (e) Name, address and occupation of the person giving the notice, if he is other than the injured person;
- (f) A statement of what exactly the injured person was doing at the time of injury;
- (g) Names, addresses and occupation of two persons who were present at the spot when accident happened; and
- (h) Remarks, if any.

**66. Maintenance of accident book.**—Every employer shall—

- (i) keep a book readily accessible (hereinafter called 'the Accident Book') in Form 15, in which the appropriate particulars of any accident causing personal injury to an insured person may be entered;
- (ii) preserve every such book when it is completed for a period of five years from the date of the last entry thereon.

**67. Notice otherwise than by an entry in accident book.**—If notice of an employment injury under Regulation 65 is given otherwise than by an entry in the Accident Book it shall be the duty of the employer or any other person to whom such notice is given under that Regulation to make an appropriate entry in the book in respect of the accident to which the notice relates immediately after such notice is received, and where the notice is received otherwise than in writing read over the particulars to the person who gives the notice and obtain his signature or thumb impression on the Accident Book.

**68. Report of accident by an employer.**—Every employer shall send a report in Form 16 to the nearest Local Office and to the nearest Insurance Medical Officer—

- (i) immediately, if the injury is serious, i.e., it is likely to disable the person for 48 hours or more, and
- (ii) in any other case within 24 hours after the receipt of the notice under Regulation 65 or of the time when the accident came to the notice of the employer or of a foreman or other official under whose supervision the insured person was employed at the time of the accident or any other person designated for the purpose by the employer:

Provided that in case of a serious injury, and particularly when the injury results in death at the place of employment, the report to the Insurance Medical Officer and the Local Office shall be sent through a special messenger, or otherwise, as speedily as may be practicable under the circumstances:

Provided further that where a report of the accident is made by the employer under the Factories Act, 1948, the report to the Local Office and to the Insurance Medical Officer may be made in the same form as is prescribed under the Factories Act, 1948, provided that all the additional information required under Form 16 is added thereto.

**69. Employer to arrange for first aid.**—Every employer shall arrange for such first aid and medical care and transport for obtaining such aid and care as the circumstances of the accident may require till the injured person is seen by the Insurance Medical Officer and such employer shall be entitled to reimbursement in respect of expenses thereby incurred by him but not exceeding such scale of expenses as may be specified by the Corporation from time to time:

Provided that if the employer is required to provide such medical aid free of charge under any other enactment, he shall not be entitled to any reimbursement of expenses.

**70. Employer to furnish further particulars of accident.**—Every employer shall furnish to the appropriate office such further information and particulars of an accident and within such time as the said office may, in writing, require.

**71. Directions by the Corporation.**—Every claimant for and every beneficiary in receipt of disablement benefit shall comply with every direction given to him by the appropriate Regional Office which requires him either—

- (i) to submit himself to a medical examination by such medical authority as may be appointed by that office for the purpose of determining the effect of the relevant employment injury or the treatment appropriate to the relevant injury or loss of faculty, or
- (ii) to attend any vocational training courses or industrial rehabilitation courses provided by any institution maintained by any Government, local authority or any public or private body recognised for the purpose by the Corporation and considered appropriate by it in his case.

**72. Reference to a Medical Board.**—Any question as to whether disablement occurring as a result of an employment injury sustained by an employee should be treated as permanent disablement within the meaning of section 51 of the Act shall be referred to the appropriate Medical Board constituted under Regulation 75. Such reference to the Medical Board may be made—

- (a) at any time by the appropriate Regional Office at the instance of the disabled person or the employer or any recognised employees' union, or
- (b) by the Corporation,
  - (i) at any time, on the recommendation of an Insurance Medical Officer, and
  - (ii) on its own initiative, after the expiry of the period of twenty-eight days from the first date on which the claimant was rendered incapable of work by the relevant employment injury.

**73. Report of Medical Board.**—The Medical Board shall after examining the disabled person submit its report to the appropriate Regional Office making recommendations as to—

- (i) whether the disablement should continue to be treated as temporary and if so, the next date when the case should again be referred to the Medical Board;
- (ii) whether the disablement can be declared to be of a permanent nature and, if so, whether the extent of loss of earning capacity can be assessed provisionally or finally;
- (iii) the assessment of the proportion of the loss of earning capacity whether provisional or final; and
- (iv) in case of provisional assessment, the period for which such assessment shall hold good:

Provided that the assessment of a disablement due to an employment injury not restricted to one or more of the injuries listed in Schedule I of the Workmen's Compensation Act, 1923 (VIII of 1923) shall be treated as provisional. Any such assessment may be referred to a Medical Board for review by the appropriate Regional Office at any time after the expiry of twelve months from the date of the last assessment.

The disabled person shall be informed in writing of the recommendations of the Medical Board, the decision of the appropriate Regional Office thereon and the benefit, if any, to which the disabled person shall be entitled.

**74. Appeal against decisions of Medical Board.**—(i) If the Corporation or a disabled person is dissatisfied with the recommendations of a Medical Board the Corporation or the disabled person may appeal against such recommendations by giving notice of appeal to the other party within three months of the date of communication of the said recommendations.

(ii) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(iii) The appeal shall lie to an Appeal Tribunal constituted under Regulation 76.

**75. Constitution of Medical Boards.**—Medical Boards for the purposes of these regulations shall be constituted by the State Government and shall consist of such persons, have such jurisdiction and follow such procedure as the State Government in consultation with the Corporation may, from time to time, decide.

**76. Appeal Tribunals.**—An Employees' Insurance Court shall constitute the Appeal Tribunal for the purposes of Regulation 74 and for such purposes, it shall be assisted by the following persons to be selected by it as assessors:—

- (a) One or more medical experts;
- (b) One or more officials of or members from a trade union or unions.

## DEPENDANTS' BENEFIT

**77. Report of death of insured person by employment injury.**—In case of death of an insured person as a result of an employment injury—

- (a) if the death occurs at the place of employment the employer shall, and
- (b) if the death occurs at any other place, a dependant intending to claim dependants' benefit shall, or,
- (c) any other person present at the time of death may,

immediately report the death to the nearest Local Office and to the nearest dispensary, hospital, clinic or other institution where medical benefit under the Act is available.

**78. Disposal of body of an insured person dying by employment injury.**—Where an insured person dies as a result of an employment injury sustained as an employee under the Act, the body of the insured person shall not be disposed of until the body has been examined by an Insurance Medical Officer, who will also arrange a *post-mortem* examination, if considered necessary, in co-operation with any other existing agency:

Provided that if an Insurance Medical Officer is unable to arrive for the examination within 12 hours of the time of the report to him, the body may be disposed of after obtaining a certificate from such medical officer or practitioner as may be available.

**79. Issue of death certificate.**—An Insurance Medical Officer attending the disabled person at the time of his death or the Insurance Medical Officer who examines the body after the death or the Medical Officer who attended the insured person in a hospital or other institution where such disabled person died, shall issue free of charge a death certificate in Form 17 to the dependants of the deceased and shall send a report to the appropriate Regional Office.

**80. Submission of claim for dependants' benefit.**—(1) A claim for dependants' benefit shall be submitted to the appropriate Local Office by post or otherwise in Form 18 by the dependant or dependants concerned or by their legal representative or, in case of a minor, by his guardian, and such claim shall be supported by documents proving—

- (i) that the death is due to an employment injury;
- (ii) that the person claiming is a dependant entitled to claim as provided in paragraph 4 or 5, as the case may be, of the Second Schedule to the Act;
- (iii) the age of the claimant:

Provided that where the appropriate Regional Office is satisfied about the *bona fides* of the applicant or about the truth of the facts relating to any of the matters mentioned above, one or more of the documents may be dispensed with.

(2) The following may be accepted as proof of age—

- (a) Certified extract from an official record of births showing the date and place of birth and father's name;
- (b) Original horoscope prepared soon after birth;
- (c) Certified extracts from baptismal register;
- (d) Certified extract from school records showing the date of birth and father's name;
- (e) Such other evidence as may be acceptable to the appropriate Regional Office in the circumstances of a particular case.

**81. Notice for dependants' benefit.**—On receipt of a claim or claims for dependants' benefit in respect of the death of an insured person and, after making such enquiries as may be necessary about the circumstances and cause of death and about all persons, who may be entitled to dependants' benefit, the appropriate Regional Office shall issue by registered post to such other persons, if any, as appear on enquiry, to be entitled to dependants' benefit, and who have not yet submitted a claim for such benefit a notice for submission of claims for dependants' benefit within a period of thirty days from the date of such notice. The notice shall indicate *inter alia* the relevant provisions of the Act and Regulations for the procedure for submission of a claim for dependants' benefit.

**82. Intimation of decision regarding dependants' benefit.**—As soon as possible after the expiry of the period during which claims can be submitted in terms of the notice issued under Regulation 81, the appropriate Regional Office shall intimate by registered post the decision of the Corporation in regard to the claim of each of the dependants in writing to the dependant concerned or to his legal representative, or, in the case of a minor, to his guardian.

**83. Date of accrual of dependants' benefit.**—The dependants' benefit shall accrue from the date of the death in respect of which the benefit is payable.

**84. Review of dependants' benefit.**—(1) The amounts payable as dependants' benefit in respect of the death of any insured person may be reviewed by the appropriate Regional

Office at its own initiative, and shall be so reviewed if an application is made to that effect, under any of the following circumstances—

- (a) if any of the beneficiaries ceases to be entitled to the dependants' benefit by reason of marriage, re-marriage, death, age or otherwise, or
- (b) if a fresh dependant is admitted to the claim for dependants' benefit by the birth of a posthumous child, or
- (c) if, after the previous decision as to the distribution of the dependants' benefit was taken, some facts materially affecting such distribution come to light.

(2) Any review under this Regulation shall be made after giving due notice by registered post to each of the dependants, stating therein the reasons for the proposed review and giving them an opportunity to submit objections, if any, to such review.

(3) Subject to the provisions of the Act and these Regulations the appropriate Regional Office may, as a result of such review, commence, continue, increase, reduce or discontinue from such date as it may decide the share of any of the dependants.

**85. Declaration by persons in receipt of dependants' benefit.**—The appropriate Regional Office may by notice sent by registered post require a person in receipt of dependants' benefit to submit, and such person shall submit, a declaration, attested by a Magistrate or such other authority as that office may accept in any particular case to the effect that the person is alive and, in case of a widow, that she has not been remarried, and, in case of an unmarried female dependant, that she has not been married:

Provided that such a declaration shall not be required more than once in every six months.

**86. Appointment of another guardian.**—If at any time the appropriate Regional Office is satisfied that a child who is in receipt of dependants' benefit is being neglected by his guardian, not being a guardian appointed under the Guardian and Wards Act, 1890, and the child's share of the dependants' benefit is not being properly spent on his or her maintenance, the appropriate Regional Office may direct that such share may be paid subject to such conditions as it may specify to such other person as it deems fit and as in its opinion would utilise it for the care and maintenance of the child.

#### MATERNITY BENEFIT

**87. Notice of pregnancy.**—An insured woman, who decides to give notice of pregnancy before confinement, shall give such notice in Form 19 to the appropriate Local Office by post or otherwise and shall submit, together with such notice, a certificate of pregnancy in Form 20 given in accordance with these Regulations on a date not earlier than seven days before the date on which such notice is given.

**88. Claim for maternity benefit commencing before confinement.**—Every insured woman claiming maternity benefit before confinement shall submit to the appropriate Local Office by post or otherwise—

- (i) a certificate of expected confinement in Form 21 given in accordance with these Regulations, not earlier than fifty days before the expected date of confinement;
- (ii) a claim for maternity benefit in Form 22 stating therein the date on which she ceased or will cease to work for remuneration and
- (iii) within thirty days of the date on which her confinement takes place, a certificate of confinement in Form 23 given in accordance with these Regulations.

**89. Claim for maternity benefit only after confinement.**—Every insured woman claiming maternity benefit after confinement shall submit to the appropriate office by post or otherwise a claim for maternity benefit in Form 22 together with a certificate of confinement in Form 23 given in accordance with these Regulations.

**90. Other evidence in lieu of a certificate.**—The Corporation may accept any other evidence in lieu of a certificate of pregnancy, expected confinement or confinement by an Insurance Medical Officer, if in its opinion, the circumstances of any particular case so justify.

**91. Notice of work for remuneration.**—Every insured woman who has claimed maternity benefit shall give notice in Form 24 if she does work for remuneration on any day during the period for which maternity benefit would be payable to her but for her working for remuneration.

**92. Date of payment of maternity benefit.**—Maternity benefit shall be payable from the date from which it is claimed provided that such date does not precede the expected



date of confinement by more than forty-two days, and that no work is undertaken for remuneration.

**93. Disqualification for maternity benefit.**—An insured woman may be disqualified from receiving maternity benefit if she fails without good cause to attend for or to submit herself to medical examination when so required; and such disqualification shall be for such number of days as may be decided by the authority authorised by the Corporation in this behalf:

Provided that a woman may refuse to be examined by other than a female doctor or midwife.

**94. Authority which may issue certificate.**—No certificate of pregnancy, of expected confinement or of confinement required under these Regulations shall be issued except by the Insurance Medical Officer to whom the insured woman has been allotted or by an Insurance Medical Officer attached to a dispensary, hospital, clinic or other institution to which the insured woman is allotted, and such Insurance Medical Officer shall examine and if in his opinion the condition of the woman so justifies issue to such insured woman free of charge any such certificate when reasonably required by such insured woman under or for the purposes of the Act or any other enactment or these Regulations:

Provided that such officer may issue a certificate of pregnancy, expected confinement or confinement under these Regulations to an insured woman who is not allotted to him or to the dispensary, hospital, clinic or other institution to which such officer is attached, if such officer is attending the woman for pre-natal care or for confinement:

Provided further that a certificate of pregnancy, of expected confinement or of confinement required under these Regulations may be issued by a registered midwife which shall be accepted by the Corporation on counter signature by the Insurance Medical Officer.

**95. Obligations of Insurance Medical Officer.**—Nothing in these Regulations shall relieve an Insurance Medical Officer to whom an insured woman has been allotted, or an Insurance Medical Officer attached to the dispensary, hospital, clinic or other institution to which an insured woman is allotted of the obligation to examine and if in his opinion the condition of the woman so justifies, issue free of charge a certificate of pregnancy, of expected confinement or of confinement during any period in which such insured woman is obtaining treatment or attendance from any other person or from any other hospital or institution.

#### CHAPTER IV—MISCELLANEOUS

**96. Authority for determining benefits.**—The authority for determining for purposes of sub-section (2) of section 70 of the Act, the value of benefits other than cash payment shall be the Medical Commissioner of the Corporation.

**97. Discontinuation or reduction of benefits.**—An employer may discontinue or reduce benefits payable to his employees under conditions of their service which are similar to the benefits conferred by the Act to the extent specified below, namely:—

- (a) from the date of the commencement of the first benefit period following the appointed day for his factory or establishment—
  - (i) sick leave on half pay to the full extent;
  - (ii) such proportion of any combined general purposes and sick leave on half pay as may be assigned as sick leave but in any case not exceeding 50 per cent. of such combined leave;
- (b) any maternity benefits granted to women employees to the extent to which such women employees may become entitled to the maternity benefit under the Act:

Provided that where an employee avails himself of any leave from the employer for sickness, maternity or temporary disablement, the employer shall be entitled to deduct from the leave salary of the employee the amount of benefit to which he may be entitled under the Act for the corresponding period.

**98. Discharge, etc., of employee under certain conditions.**—If the conditions of service of any employee so allow, an employer may discharge or reduce on due notice an employee—

- (i) who has been in receipt of disablement benefit for temporary disablement, after he has been in receipt of such benefit for a continuous period of six months or more;
- (ii) who has been under medical treatment for sickness or has been absent from work as a result of illness duly certificate in accordance with these Regulations to arise out of the pregnancy or confinement rendering the employee unfit for work, after the employee has been under such treatment or has been absent from work for a continuous period of six months or more.

**99. Suspension of sickness or temporary disablement benefit.**—Sickness benefit or disablement benefit for temporary disablement may be suspended, if a person who is in receipt of such benefit fails to comply with any of the requirements of section 64 of the Act, and such suspension shall be for such number of days as may be decided by the authority authorised by the Director General in this behalf.

**100. Relaxation.**—The Director General may by special or general order relax any Regulation under such circumstances and subject to such conditions, as he may deem fit.

**101. Appointment of sick visitors.**—The Corporation may appoint sick visitors for the purpose of visiting insured persons who are sick or who are or may become entitled to sickness, maternity or disablement benefit:

Provided that a female insured person shall not be visited otherwise than by a woman.

**102. Certain officers to have powers of inspection.**—The Director General, the Insurance Commissioner, a Deputy Insurance Commissioner, a Regional Director, a Deputy Regional Director, an Insurance Officer and an Assistant Insurance Commissioner shall have all the powers of an Inspector specified in sub-section (2) of section 45 of the Act. In addition to the officers mentioned above, the Director General may, by a written order confer upon any employee of the Corporation or any Government officer the powers of an Inspector for such period or periods as he may think fit.

**102A. Inspection Book.**—(i) Every principal employer shall maintain a bound inspection book and shall be responsible for its production, on demand by an Inspector or any other officer of the Corporation duly authorised to exercise the powers of an Inspector irrespective of the fact whether the principal employer is present in the factory or not during the inspection.

(ii) A note of all irregularities and illegalities discovered at the time of inspection indicating therein the action, if any, proposed to be taken against the principal employer together with the orders for their remedy or removal passed by an Inspector or any other officer of the Corporation duly authorised to exercise the powers of an Inspector, shall be sent to the principal employer who shall enter the note and orders in the inspection book.

(iii) Every principal employer shall preserve the inspection book maintained under this regulation, after it is filled for a period of 5 years from the date of the last entry therein.

**103. Medical benefit during disablement.**—A person who is in receipt of disablement benefit shall be entitled to medical benefit while he is in receipt of such benefit:

Provided that after the disablement has been declared as a permanent disablement, the person shall not be entitled to medical benefit, if he is not otherwise entitled to such benefit, except in respect of any medical treatment which may be rendered necessary on account of the employment injury from which the disablement resulted.

**103A. Medical benefit after contribution ceases to be payable.**—(1) A person in respect of whom contribution has ceased to be payable under the Act during a contribution period, shall be entitled to medical benefit, for a period of 13 weeks following the week for which contributions in respect of him were last payable:

Provided that where an insured person has paid not less than 12 weekly contributions in a contribution period, he shall be entitled to medical benefit till the end of the corresponding benefit period.

(2) An insured person whose title to medical benefit has ceased under sub-regulation (1) shall again be entitled to medical benefit from the date of his re-employment as an employee under the Act in a factory to which the Act applies, if he produces a certificate from the employer in the form which may be specified by the Director General for the purpose.

(3) An employer shall, on demand, issue the certificate referred to in sub-regulation (2) to an employee who has been employed by him after cessation of his previous insurable employment.

**104. Production of document for medical benefit.**—A person intending to claim medical benefit, and who is otherwise entitled to such benefit, shall produce his Identity Card or such other document as may have been issued in lieu thereof at the time of claiming such benefit if demanded by the Insurance Medical Officer and if he fails to do so medical benefit may be refused to him.

**105. Further certificates.**—Where any question arises as to the correctness of any certificate by virtue of which an insured person claims, or is entitled to, any benefit under the Act, he shall, on receipt of not less than three clear days' notice in writing given by the appropriate office submit himself, with a view to obtaining a further certificate, to medical examination by such medical authority as the Corporation may appoint in this

behalf. If there is any difference between the certificate so obtained and the original certificate, the right to benefit may be determined as if the original certificate agreed with the further certificate.

**106. Change of circumstances to be notified.**—Every person to whom any benefit is payable under the Act shall, as soon as may be practicable, notify the appropriate office of any change of circumstances which he may be expected to know and which might affect the continuance of his right to receipt of such benefit.

FORM 1—(Regulations 11 & 12.)

*Declaration Form*

Serial No.  
in return  
in Form 3 .....

(Set.....)

Insur-  
ance  
No.

--	--

Employ-  
er's Code  
No.

--	--	--

1. Name .....  
(In block capitals)
2. Caste.....3. Sex.....
4. Marital Status.....  
(State whether bachelor, spinster, married,  
widow or widower)
5. Father's Name.....  
or  
Husband's Name.....  
(For married women only)
6. (a) Age.....Years.  
(b) Year of Birth.....
7. Present residential address (in full)  
.....

Identification Marks

Photograph of the  
insured person.

8. Permanent home address (in full).....
9. Dispensary.....10. Local Office.....  
(State the names of dispensary and local office to which the employee wishes to be  
attached).

*Cut Here*

*Temporary Identification Certificate*

Dispensary .....Local Office.....  
Full Name .....Age .....Year .....

Signature of Manager  
or other Officer of  
the Employer.....  
Designation.....  
Date.....

Name,  
Address  
and  
Code No.....

I hereby nominate .....  
S/W/D of..... of.....  
.....(Address)  
to receive payment under Section 71 of any benefit that may be due to me at the time  
of my death.

EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS, 1950

IIII

I affirm that I have NOT been previously insured under the Act and no Identity Card has been issued to me.

I hereby declare that the above particulars have been given by me and are correct to the best of my knowledge and belief.

Place.....Date.....

*Signature or thumb impression of the employee.*

Department of Factory.....

Shift No., if any.....

Countersigned.....

Designation.....

*Signature of Assistant,  
if any, who filled the form.*

Name, Address and Code No. of employer.....

Cut Here

*Receipt for Identity Card*

Received Identity Card: Insurance No.

--	--

Date.....

*Signature or thumb impression of the  
insured person.*

FORM 2--(Regulation 13.)

*Contribution Card*

Insurance No.

--	--

Distinguishing No.

allotted

by the employer, if any.....

Department .....

Shift, if any .....

Employer's Code No.....Occupation .....

Name.....Sex.....

Father's/Husband's Name.....

**Warning.**—Any person who removes a stamp from this Card or makes use of a stamp removed from a Card is liable to prosecution.


## Summary of Stamps affixed/or contribution paid

Group	Value of each stamp	No. of Stamps	Total value of stamps (2) × (3)	Assumed average wage for the group	Total assumed wage (3) × (5)
(1)	(2)	(3)	(4)	(5)	(6)
1. . . . .	Nil			0 14 0	
2. . . . .	0 2 0			1 4 0	
3. . . . .	0 4 0			1 12 0	
4. . . . .	0 6 0			2 8 0	
5. . . . .	0 8 0			3 8 0	
6. . . . .	0 11 0			5 0 0	
7. . . . .	0 15 0			7 0 0	
8. . . . .	1 4 0			10 0 0	
Total					

Checked and found correct.\*

Signature of Employer or his assistant.

Regional Office

FORM 3—(Regulation 14.)  
Return of Declaration Forms

Name and address of the  
Factory or Establishment .....

Employer's Code Number

I send herewith the Declaration Forms in respect of the employees mentioned below. I hereby declare that every person employed as an employee within the meaning of section 2(9) of the Employees' State Insurance Act, 1948, on.....in this factory or establishment and in receipt of a remuneration not exceeding Rs. 400 per month has been included in this list (excepting only those in respect of whom declarations have been sent to the Corporation in the past).

Place.....Signature.....

Date.....Designation.....

Serial No.	Name of the employee	Distinguishing No. with the employer, if any	Father's or Husband's name	Insurance No. allotted by the Corporation (to be entered at the Regional Office)
(1)	(2)	(3)	(4)	(5)

Signature.....  
Designation.....

Enclosures.—Declaration Forms.....  
Continuation sheets.....

\*Not to be entered by the employer.

FORM 4—(Regulation 17.)

*Identity Card*

Insurance No.

--	--

Name ..... Sex .....

Identification marks

S/O—D/O

W/O

Photograph of the  
insured person

Year of birth.....

Address .....

Dispensary.....

Employment Changes

Local Office .....

Date	Code No.	Date	Code No.

Prepared by

Signature or thumb  
impression of the employee

FORM 5—(Regulation 22.)

*Receipt for Contribution Card*

Book No.

Receipt No.

*Employer's Name*

*Code No.*

*Particulars of Card retained*

Name of Employee.....Insurance No.....

Contribution period from..... to.....

Particulars of values of stamps affixed and dates of cancellation.

Weeks and Dates			

Total No. of Stamps

Total value of Stamps

Date

Signature of Inspector or Authorised Official.

In duplicate

## FORM 6—(Regulation 26.)

*Return of Contribution Cards*

1. Name and address of the Factory or Establishment .....
2. Employer's Code Number .....

I send herewith Contribution Cards in respect of the undermentioned insured persons. I hereby declare that this return includes every employee to whom the contribution period to which this return relates, applies and that the Cards have been correctly stamped

Contribution shown on the cards have actually been paid in accordance with the provisions of the Act and the Regulations relating to the payment of contributions and affixing stamps.

Place.....Signature.....

Date.....Designation.....

Serial No.	Insurance Number	*Paid Contributions shown on Cards	
		No.	Value

\*The total number of token stamps affixed shall be included in the sub-column under the heading "No."

Signature.....

CONFIDENTIAL

Stamp of the dispensary.

## FORM 8—(Regulation 57.)

*First Certificate*

Book No.....

Serial No.....

To.....Insurance No.

I certify that I have examined you to-day and that in my opinion you now need medical treatment and attendance and abstention from work on medical grounds by reason of.....

\*In my opinion you will be fit to resume work to-morrow/on\*\*.....

Date.....Signature.....

Insurance Medical Officer.

(Rubber stamp or name in block letters).

Any other remarks by the Medical Officer.....

\*Delete if not applicable.

\*\*The day to be indicated must in no case be later than the third day after the date of the examination.

## FORM 9—(Regulation 58.)

CONFIDENTIAL*Final Certificate*

Book No.....

Serial No.....

Stamp of the  
dispensary.

To.....Insurance No.

Date of first certificate of spell of sickness or disablement.....

I certify that I have examined you to-day and that in my opinion you have continued to need medical treatment and attendance and abstention from work on medical grounds upto and including this day by reason of.....Case group No.....

In my opinion you will be fit to resume work to-morrow/on.....

Date.....Signature.....

Insurance Medical Officer.

(Rubber stamp or name  
in block letters).

Any other remarks by the Medical Officer.....

## FORM 10—(Regulation 59.)

CONFIDENTIAL*Intermediate Certificate*

Book No.....

Serial No.....

To.....

Stamp of the  
dispensary.

Insurance No.

Date of first certificate of spell of sickness or disablement.....

I certify that I have examined you to-day and that in my opinion you have continued to need medical treatment and attendance and abstention from work on medical grounds upto and including this day by reason of.....

Date.....Signature.....

Insurance Medical Officer.

(Rubber stamp or name  
in block letters).

Any other remarks by the Medical Officer.....



**CONFIDENTIAL**

FORM 11—(Regulation 61.)

*Special Intermediate Certificate*

Stamp of the  
dispensary.

Book No.....

Serial No.....

To..... Insurance No.

Date of first certificate of spell of sickness or disablement.....

I certify that I have examined you to-day and that in my opinion you have continued to need medical treatment and have remained incapable of work upto and including this day by reason of.....

I further certify that, judging from your present condition your incapacity/sickness is of such a character that it will be unnecessary to see you for the purpose of treatment more frequently than once in.....weeks, and you will require medical treatment and will remain incapable of work at least up to the end of.....weeks from this date.

I propose to issue certificates in this form at the intervals stated above so long as your condition does not require more frequent attendance.

In my opinion you\* <sup>should now</sup> be referred to a Medical Board to determine if you need not yet are permanently disabled.

Date..... Signature.....

Insurance Medical Officer.

(Rubber stamp or name  
in block letters).

Any other remarks by the Medical Officer.....

FORM 12—(Regulation 63.)

*Sickness or Temporary Disablement Benefit*

CLAIM FOR BENEFIT

I.....s/w/d of.....

Insurance No.

hereby state that

I was certified sick/temporarily disabled from.....  
.....A.M./P.M. on the.....  
day of.....19 , and I have not been at work since  
.....A.M./P.M. on the.....  
.....day of.....19 .

\*Strike off that which is not necessary.

I claim benefit accordingly.

Present

.....employer.....Department.....

Last

Occupation.....Shift, if any.....

Present Address.....

Date.....

Signature or thumb impression.

*Accident cases only.*

Date, time and place of accident.....

If a notice of the accident has NOT been given to the employer, state briefly on a separate paper how the accident happened.

Date.....

Signature or thumb impression.

IMPORTANT:—

1. Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.
2. This form should be completed and sent without delay to the appropriate Local Office.
3. Before resuming work a Final Certificate must be obtained.

FORM 13—(Regulation 63.)

*Sickness or Temporary Disablement Benefit*

CLAIM FOR BENEFIT

I.....s/w/d of.....

Insurance No.

--	--

declare that,

because of sickness/temporary disablement, I have not been at work since the date of the last certificate sent to you.

I claim benefit accordingly.

Date.....

Signature or thumb impression.

Present Address.....

IMPORTANT:—

1. This form should be completed and sent without delay to the appropriate Local Office.
2. The insured person should obtain a final certificate before resuming work.
3. Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.

FORM 14—(Regulation 63.)

*Sickness or Temporary Disablement Benefit*

CLAIM FOR BENEFIT

I.....s/w/d of.....

Insurance No.

--	--

declare that,

because of sickness/temporary disablement, I have not been at work since the date of the last certificate sent to you.

I no longer claim to be sick/temporarily disabled

from.....day of.....19 ;

shall

and I — not take up any work for remuneration before that day.

did

I claim benefit accordingly.

Date.....

Signature or thumb impression.

Present Address.....

IMPORTANT:—

- Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.

FORM 15—(Regulation 66.)

## Accident Book

Serial No.		
Date of notice		
Time of notice		
Name and address of the injured person		
Sex		
Age		
Insurance No.		
Shift, Department and Occupation of employee		
INJURY	Date	
	Time	
	Place	
	Cause of injury	
	Nature of injury	
	What exactly was the insured person doing at the time of injury	
	Name, occupation, address and signature or the thumb impression of the persons giving notice	
	Signature and designation of the person who makes the entry	
	Name, address and occupation of two witnesses.	
	Remarks, if any	

FORM 16—(Regulation 68.)  
*Accident Report from Employer*

1. Name of employer.
  2. Employer's Code No. 

--	--	--
  3. Address of premises where accident happened.
  4. Nature of Industry.
  5. Department, Shift (if any) and exact place where the accident happened.
  6. Name of the injured person.
  7. Insurance No. 

--	--	--
  8. Address of the injured person.
  9. (a) Sex, (b) Age (last birthday), (c) Occupation of injured person. (a) (b) (c)
  10. Date and hour of accident.
  11. Hour at which he started work on day of accident.
  12. *Cause of accident*—
    - (a) If caused by machinery—
      - (i) Give name of the machine and part causing the accident, and
      - (ii) State whether it was moved by mechanical power at that time.
    - (b) State exactly what the injured person was doing at that time.
    - (c) In your opinion, was the injury due to an accident directly attributable to:—
      - (i) the injured person having been at the time thereof under the influence of drink or drugs, or
      - (ii) the wilful disobedience of the injured person to an order expressly given, or to a rule expressly framed for the purpose of securing the safety of employees, or
      - (iii) the wilful removal or disregard by the injured person of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of the employees.
    - (d) Describe briefly how the accident occurred.
  13. (a) Nature and extent of injury (e.g., fatal, loss of finger, fracture of leg, scald, etc.).  
(b) Location of injury (right leg, left hand or left eye, etc.).  
(c) (i) If the accident is not fatal whether the injured person has returned to work.  
(ii) If so, date and hour of return to work.
  14. Physician, dispensary or hospital from whom or where the injured person received or is receiving treatment.
  15. (i) Has injured person died. (i).  
(ii) If so, date of death. (ii).
- I certify that to the best of my knowledge and belief the above particulars are correct in every respect.
- Date of despatch of report.

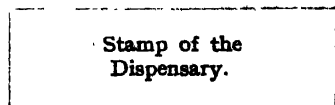
Signature .....  
Designation .....  
Employer's Name,  
Address and Code No.

FORM 17—(Regulation 79.)

*Dependants' Benefit*

DEATH CERTIFICATE

Book No.....  
Serial No.....



Name of the deceased insured person.....

s/w/d of.....Insurance No.

--	--

I certify that in my opinion the above named deceased insured person died on the .....day of.....19 , as a result of an injury. I\* had been attending him/her for providing medical benefit before his/her death and I attended him/her for the last time on the.....day of.....19 .

Date.....

Signature.....

Insurance Medical Officer.

(Rubber stamp or name  
in block letters).

Any other remarks by the Medical Officer.....

\*The language may be suitably amended if the Insurance Medical Officer had not  
his  
attended the deceased person before — death.  
her

FORM 18—(Regulation 80.)

*Dependants' Benefits*

CLAIM FORM

Name of the deceased insured person. ....

s/w/d of.....Insurance No. ....

Date of death.....

Last employed.....

I/we the following, being dependants of the above named deceased insured person,  
his  
apply for dependants' benefit in respect of — death.  
her

Name of the dependant	Sex	Age or year of birth	Marital Status	Relationship with the deceased	Name of the guardian in case of a minor
.....	.....	.....	.....	.....	.....

So far as I/we know the following are the only other dependants who may be entitled to Dependants' Benefit in respect of the death of the above named insured person.

Name of the dependant	Sex	Age or year of birth	Marital Status	Relationship with the deceased	Name of the guardian in case of a minor
.....	.....	.....	.....	.....	.....

I/we declare that the particulars given above are true to the best of my/our knowledge and belief.

Signatures

Present Address

- 1.
- 2.
- 3.
- 4.

.....  
.....  
.....  
.....

IMPORTANT.—Any person who makes a false statement or representation for the purpose of obtaining benefit whether for himself or for some other person renders himself liable to prosecution.

## FORM 19—(Regulation 87.)

*Maternity Benefit*

## NOTICE OF PREGNANCY

I .....

Insurance No. 

--	--

wife of

.....hereby give

daughter of  
notice of pregnancy.

Present Address.....

Present

..... employer.....

Last

Date .....

Signature or thumb impression.

## FORM 20—(Regulation 87.)

*Maternity Benefit**Certificate of Pregnancy*CONFIDENTIAL

Book No.....

Serial No.....

Stamp of the  
Dispensary.To.....Insurance No. 

--	--

I certify that I have examined you to-day and that in my opinion you are pregnant,  
and your pregnancy appears to be.....weeks old.

Date.....

Signature of midwife, if any.

.....  
Signature or Countersignature  
of Insurance Medical Officer.(Rubber stamp or name  
in block letters.)

## FORM 21—(Regulation 88.)

*Maternity Benefit*

## CERTIFICATE OF EXPECTED CONFINEMENT

CONFIDENTIAL

Book No.....

Serial No.....

Stamp of the  
Dispensary.To.....Insurance No. 

--	--

I certify that I have examined you to-day and that in my opinion you may expect to be confined in the week commencing .....

Date.....

Signature of midwife, if any.

Signature or Countersignature  
of Insurance Medical Officer.

(Rubber stamp or name  
in block letters.)

Any other remarks.....

FORM 22—(Regulations 88 & 89.)

*Maternity Benefit*

CLAIM FORM

I.....Insurance No.

wife of

..... hereby claim maternity benefit with  
daughter of ..... day of ..... 19.....  
effect from the.....

I hereby declare that I have ceased/shall cease to work for remuneration with effect from that date.

Present/last employer.....

Department, shift and occupation.....

Present address.....

Date..... Signature or thumb impression.

IMPORTANT:—

1. No work for remuneration should be taken up during the period for which maternity benefit is being or is to be claimed. Notice of resumption of work in Form No. 24 must be sent before any work is taken up.
2. Any person who makes a false statement or representation for the purpose of obtaining benefit whether for oneself or for some other person renders oneself liable to prosecution.

FORM 23—(Regulations 88 & 89.)

*Maternity Benefit*

CERTIFICATE OF CONFINEMENT

CONFIDENTIAL.

Book No.....

Serial No.....

Stamp of the  
Dispensary.

I certify that I attended.....

Insurance No.

in connection

with her confinement at.....(address) and that she was  
there delivered of a child on the.....day of.....19.....

\*This date should not be more than 50 days later than the date of examination.

**EMPLOYEES' STATE INSURANCE REG. (TEMPORARY AMENDMENTS) ORDER, 1951 II23**

\*The confinement was premature and the week in which it was expected that she would be confined was the week commencing.....

Date.....

Signature of midwife, if any.  
.....

Signature or Countersignature  
of Insurance Medical Officer.

(Rubber stamp or name  
in block letters.)

Any other remarks.....

\*To be struck off unless applicable.

FORM 24—(Regulation 91.)

*Maternity Benefit*

NOTICE OF WORK

I ..... Insurance No. 

--	--

wife of

..... do hereby give notice that I have  
daughter of  
taken/shall take up work for remuneration with effect from the.....day of  
.....19 . I have drawn maternity benefit only upto the.....  
day of.....19 .

Date.....

Present Address..... Signature or thumb impression.

**EMPLOYEES' STATE INSURANCE REGULATIONS (TEMPORARY  
AMENDMENTS) ORDER, 1951<sup>1</sup>**

Whereas in order to give effect to the provisions of Chapter V-A of the Employees' State Insurance Act, 1948 (XXXIV of 1948), it is necessary to amend the Employees' State Insurance (General) Regulations in certain respects:

Now, therefore, in exercise of the powers conferred by section 73-H of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby makes the following Order:—

**1. Short title and commencement.**—(1) This Order may be called the Employees' State Insurance Regulations (Temporary Amendments) Order, 1951.

(2) It shall come into force on the 24th February, 1952 and shall remain in force only so long as Chapter V-A of the Act is in force.

**2. Definitions.**—In this Order, 'Act' means the Employees' State Insurance Act, 1948 (XXXIV of 1948).

**3. Temporary amendments of Regulations.**—So long as the provisions of Chapter V-A of the Act are in force the Employees' State Insurance (General) Regulations, 1950, shall have effect subject to the following modifications, namely:—

(1) to clause (f) in Regulation 2, the following shall be added, namely:—

"and shall include for the purpose of these Regulations a token stamp issued to indicate that a contribution would have been payable in respect of an exempted employee if the provisions of Chapter V-A were not in force,"

<sup>1</sup> Published under the Ministry of Labour Notification No. S.R.O. 252 dated the 1st February, 1952 in Gazette of India, 1952, Part II—Sec. 3, p. 272.



(2) to Regulation 29, the following proviso shall be added, namely:—

"Provided that in the case of an exempted employee in respect of whom contribution would have been payable if the provisions of Chapter V-A of the Act had not been in force, the fact that such contribution would have been so payable shall be indicated by affixing a token stamp on the contribution card of that employee in the space provided for the purpose."

(3) to Regulation 31, the following proviso shall be added, namely:—

"Provided that, in the case of an exempted employee the token stamp in respect of any week shall be affixed within such time as the contribution in respect of that week would have been payable if the provisions of Chapter V-A had not been in force."

(4) for Regulation 35, the following Regulation shall be substituted, namely:—

"35. **Reasons for non-payment of contributions.**—Where no contribution is payable or in the case of an exempted employee, so long as Chapter V-A is in force, where no token stamp is affixed in respect of a week or weeks in any contribution period, the reason for non-payment or non-affixation shall be clearly indicated in writing in the space provided for affixing stamps for recording contributions."

(5) In Form 2, in the tabular statement under the heading "summary of stamps affixed / or contribution paid", in column (2) for the figures "0—7—0", "0—9—0", "0—12—0", "1—2—0", "1—8—0", "2—1—0", "2—13—0", "3—12—0", the words and figures "Nil", "0—2—0", "0—4—0", "0—6—0", "0—8—0", "0—11—0", "0—15—0", "1—4—0" shall respectively be substituted.

(6) In Form 6, in the heading in column 4 of the table, an asterisk shall be inserted over the words "paid contributions" and the following shall be added at the end of the Form, namely:—

"the total number of token stamps affixed shall be included in the sub-column under the heading 'number'."

## PAYMENT OF EMPLOYERS' SPECIAL CONTRIBUTION<sup>1</sup>

In exercise of the powers conferred by section 73-A of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby notifies as follows:—

1. The employers' special contribution shall be payable in respect of each quarter ending on 31st March, 30th June, 30th September and 31st December as the case may be.

2. The total wage bill of an employer in respect of a quarter means the total wages which have accrued due to employees in his factory or establishment in respect of all wage periods the last day of which falls in such quarter:

Provided that in the case of the first quarter which ends after the 24th February, 1952 the wage periods which ended before such date shall be excluded.

<sup>2</sup>[Provided further that in the case of a wage period commencing before and ending on or after the 24th February, 1952, the amount to be included in the total wage bill shall be such amount as bears to the wages for such wage period the same proportion which the number of days included in the period from the 24th February, 1952, to the last day of such wage period, (both days inclusive) bears to the total number of days in such wage period.]

3. The principal employer shall pay to the Corporation the employer's special contribution within thirty days from the last day of the quarter in respect of which such contribution is payable:

Provided that the amount payable shall be rounded off to the nearest rupee, fractions of a rupee below eight annas being ignored and those of or above eight annas being reckoned as a full rupee.

4. The employers' special contribution shall be paid to the account of the Employees' State Insurance Fund with such branch or branches of the Imperial Bank of India or such other bank, as may be specified for any area by the Director General of Employees' State Insurance (hereinafter referred to as the Director General), or as may be agreed to by the Director-General in respect of any factory or establishment.

<sup>1</sup> Published under the Ministry of Labour Notification No. S.R.O. 279 dated the 6th February, 1952 in Gazette of India, 1952, Part II—Sec. 3, p. 279.

<sup>2</sup> Inserted by Notification No. S.R.O. 965 dated the 21st May, 1952.

5. The payment referred to in clause 4 may be made either by tender of cash or by cheque drawn on a bank referred to in that clause or on any scheduled bank or any other bank which has a clearing account with a scheduled bank or the Reserve Bank of India:

Provided that where the payment is made by cheque the collection charges, if any, of the bank shall be included in the amount of the cheque over and above the amount sought to be paid.

*Explanation.*—A cheque bearing a date later than the date of deposit shall not be accepted.

6. The principal employer shall, at the time he tenders payment to the bank, also furnish to the bank a duly completed challan in triplicate in Form S-I or S-II, as the case may be. The bank shall in token of having received the amount—

(a) where the payment is made in cash, return forthwith to the payer one copy of the challan duly countersigned, and

(b) where the payment is made by means of a cheque, return to the payer one copy of the challan duly countersigned as soon as the cheque has been realized, showing also on the challan the net amount credited to the Fund after deduction of the collection charges, if any.

7. Where a principal employer pays the said contribution by a cheque, the corresponding amount shall not be deemed to have been paid until the cheque has been realized and the amount credited to the account of the said Fund in any bank referred to in clause 4.

8. (i) Any principal employer who has paid any amount in excess of the employer's special contributions due from him for any quarter, may apply in writing to the Corporation within twelve months of the date of such payment, for refund of the excess amount paid by him furnishing full details as to the employers' special contributions that have actually fallen due in respect of the quarter and the amounts which he has actually paid in respect thereof.

(ii) Subject to the production of such evidence by way of affidavit or otherwise as the Director General or any officer of the Corporation authorised by him in this behalf may require, the amount of such excess as may be admissible, shall be refunded without any interest to the principal employer.

(Obverse)

IMPERIAL BANK OF INDIA  
EMPLOYEES' STATE INSURANCE FUND—ACCOUNT NO. 1

FORM No. S—I  
CASH

PAY—IN SLIP

FOR NOTES & COINS ONLY.

\_\_\_\_\_19\_\_

Ledger Folio\_\_\_\_\_

Particulars.

Notes	.	.			
Rupees	.	.			
Small Coins	.				
Copper	.	.			
Rs.	.				

Paid in the CREDIT of Employees' State Insurance Fund—Account No. 1

Rupees \_\_\_\_\_

on account of employer's special contribution payable for the quarter from\_\_\_\_\_

to\_\_\_\_\_

under Chapter V-A of the Employees' State Insurance Act, 1948.

On behalf of \_\_\_\_\_  
(name of employer)

Employer's Code No. \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_

Depositor.

Teller\_\_\_\_\_

Head Cashier\_\_\_\_\_

Scroll Cash No. \_\_\_\_\_

Entd. by\_\_\_\_\_

FORM No. S—I

(Reverse)

## PARTICULARS OF NOTES

Denomination of Notes	Number	Amount	

(Obverse)

FORM No. S—II

IMPERIAL BANK OF INDIA  
EMPLOYEES' STATE INSURANCE FUND—ACCOUNT NO. 1

PAY—IN SLIP  
FOR CHEQUES.

Ledger Folio \_\_\_\_\_ 19 \_\_\_\_

Paid in to the CREDIT of Employees' State Insurance Fund—Account No. 1

Rupees \_\_\_\_\_

on realisation as per particulars overleaf on account of employer's special contribution payable, for the quarter from \_\_\_\_\_ to \_\_\_\_\_ under Chapter V-A of the Employees' State Insurance Act, 1948.

TO BE FILLED IN BY THE BANK.

Date when cheque received.		
Amount of cheque	Rs.	As.
Collection charges, if any,		
Net amount credited		
Passing official _____		
Scroll Transfer _____		

On behalf of \_\_\_\_\_  
(name of employer)

Employer's Code No. \_\_\_\_\_

Address \_\_\_\_\_

Depositor.

FORM No. S—II

(Reverse)

## PARTICULARS

Cheque number, etc.	Amount	
	Rs.	As.

### RATE OF EMPLOYERS' SPECIAL CONTRIBUTION<sup>1</sup>

S.R.O. 253 dated the 1st February, 1952—In pursuance of the powers conferred by sub-section (3) of section 73-A of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby fixes the employers' special contribution with effect from the 24th day of February, 1952, as follows:—

- (i) the rate of employer's special contribution in the case of factories or establishments situated in an area in which the provisions of both Chapters IV and V are in force shall be  $1\frac{1}{4}$  per cent. of the total wage bill of the employer.
- (ii) the rate of employer's special contribution in the case of factories or establishments situated in an area in which the provisions of the said Chapters are not in force shall be  $\frac{1}{2}$  per cent. of the total wage bill of the employer.

### EXEMPTION FROM PAYMENT OF EMPLOYERS' SPECIAL CONTRIBUTION

S.R.O. 3115 dated the 18th September, 1954—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby exempts for a further period of one year with effect from the 1st October, 1954, from the payment of the employer's special contribution under Chapter VA of the said Act every factory—

(a) which is exclusively engaged in one or more of the manufacturing processes specified in column 1 of the Table annexed hereto or any other manufacturing process which is incidental to or connected with any of the aforesaid processes or in any other manufacturing process carried on in a seasonal factory of the nature referred to in clause (12) of section 2 of the said Act; and

(b) which is situate in any area specified in the corresponding entry in column 2 of the said Table, subject to the condition, if any, specified in the corresponding entry in column 3 of the said Table.

TABLE

Name of the manufacturing process 1	Area where situated 2	Conditions 3
1. Redrying unmanufactured leaf tobacco	Whole of India except the State of Jammu and Kashmir	
2. Rice milling	Ditto.	
3. Cold storage	Ditto.	
4. Salt manufacture	Ditto.	
5. Cashew processing	Ditto.	
6. Oil mills	Ditto.	Provided that the process of oil milling is subsidiary to any other manufacturing process which is seasonal and so long as the number of employees engaged in oil milling is less than fifty.
7. Ice manufacture	The State of Punjab, Delhi, Ajmer, Uttar Pradesh, Vindhya Pradesh, Madhya Pradesh, Madhya Bharat, Bhopal, Hyderabad, Bihar, Rajasthan and PEPSU.	

<sup>1</sup> Published in Gazette of India, 1952, Part II—Section 2, page 271.

## **PROVIDENT FUND LEGISLATION**

### **Absence of Early Provident Fund Laws**

There was no legislation in India providing for benefits for old age, invalidity and death of industrial workers. Some of private and government undertakings attempted to solve these problems by means of provident funds, gratuity and pension schemes.

### **Provident Funds Act, 1925 (XIX of 1925)**

The first legislative measure relating to provident funds was undertaken by the Central Government with the enactment of the Provident Funds Act in 1925. The Act which came into force on the 27th August, 1925, is greatly restricted in scope and deals only with provident funds relating to Government, railway administration and local authorities and certain other provident funds and lays down rules for the protection of compulsory deposits.

### **Legislation Regarding Recognised Provident Funds (XII of 1929)**

There was practically no legislation relating to provident funds in private industries till the year 1929 when the Indian Income-tax Act of 1922 was amended by the Indian Income-tax (Provident Funds Relief) Act, 1929 (XII of 1929) incorporating a new Chapter IXA containing special provisions relating to certain classes of provident funds. Under this amendment, the Commissioner of Income-tax may accord recognition to any provident fund satisfying the following conditions, viz., (1) the employee's contribution shall be a definite proportion of his salary and shall be deducted by the employer from his salary and credited to his individual account of the fund; (2) the employer's contribution shall not exceed the employee's contribution and shall be credited to the employee's individual account at least once a year. The employer's contribution may exceed the employee's contribution for the same period only in certain cases where an employee is in receipt of a salary not exceeding Rs. 500/- per month or where the regulations of the fund permit periodical bonuses; (3) the fund consisting of the total amount accruing from the employer's and employee's contributions and interest thereon shall be vested in two or more trustees or in an official trustee under a trust which shall not be revocable save with the consent of the beneficiaries; (4) the accumulated balance to the credit of the employee shall be paid to him when he leaves his employment after a specified period's approved service, unless he is dismissed for misconduct or voluntarily leaves his employment before expiration of a specified term of service otherwise than on account of ill-health or other unavoidable cause. In the latter case, the employee's contributions and the interest thereon must be refunded to him.

Subject to the specified maxima under the Indian Income-tax Act, the contributions paid by the employee and his employer to the provident fund, the annual accretion to the credit of the former and the accumulated balance paid to him are exempt from income-tax.

### **Rules Regarding Recognised Provident Funds**

Under Chapter IX-A of the Indian Income-tax Act, the Central Board of Revenue has framed the Indian Income-tax (Provident Funds Relief) Rules on the 15th March 1950, with the approval of the Central Government. Under the rules, the trustees may allow the employee to withdraw part of his provident fund balance on special grounds in the following instances or circumstances of a similar nature—(a) to pay expenses incurred in connection with illness of the member or any of his family; (b) to pay expenses which

the member is obliged by his religion to incur in connection with marriages and funerals; (c) to pay for the passage over sea of the member or any of his family; (d) to meet the expenditure for purchasing a house or site for a house or for construction of a house provided that the house or site is assigned to the trustees. and (e) to pay life insurance premium provided the policy is assigned to the trustees. Such withdrawals shall exceed the member's three month's salary except for the purposes of building or life insurance where six month's salary may be withdrawn. The withdrawals must be repaid in not more than 24 monthly instalments.

#### **Royal Commission on Labour, 1931**

The Royal Commission on Labour in the Report published in 1931 admitted the necessity of making some provisions against old age. Sri M. N. Joshi and Sri Diwan Chaman Lall, two members of the Commission who were in intimate touch with the working classes, pointed out the miseries experienced by the workers in their old age in the absence of any such provision. The Commission remarked: "It is appreciated that in this report it is impossible to make provision for meeting every contingency in the life of the worker but, the importance of the matter being generally admitted, they feel it incumbent to recommend that, until such time as it is found practicable to institute either a general scheme of old age pensions or provident funds for industrial workers, Government should, whenever possible, encourage employers by financial grants or other means to inaugurate schemes of this nature for their employees."<sup>1</sup>

#### **Labour Investigation Committee, 1946**

The position of provident funds in private industries has been nicely summed up by the Labour Investigation Committee in their Main Report published in 1946 in the following words: "The whole problem of provision against old age or death of bread-winners legitimately falls within the scope of social security and it is a matter for consideration whether either the initiation or management of schemes of provident funds, gratuities and pensions should be left to employers themselves. Of course, so long as there are no schemes of social security introduced in a particular industry or area, the existing private schemes of provident fund, etc., should be allowed to continue under the management of employers. The existing schemes in this connection do not appear to be very liberal, and specially in regard to the employer's contribution to provident funds of workers the restrictions on withdrawal of employer's contribution seem to be somewhat unsatisfactory. If provision against old age or death of bread-winner is intended to stabilise the industrial worker in employment, the employer's contribution, which is really in consideration for permanent service by the worker, should as far as possible be made available to him on early retirement, etc. The absence of social security measures like provident funds, gratuities and pensions in most concerns has largely contributed to the migratory character of Indian labour, and is one of the most important causes of large labour turnover in factories. Though some of the larger employers have instituted tolerably good schemes, the number of such employers is very small. During the last few years, however, some progress has been achieved in this direction. Generally speaking, provident funds are most common, gratuities are given only in some cases and pensions are rather rare. Only some of the provident funds are registered, while most are not.\* \* \* \* In case of unregistered funds, the amount standing to the worker's credit is attachable, but not so in the case of registered funds. We are of opinion that all provident funds, wherever they exist, should be compulsorily registered and treated as trusts."<sup>2</sup>

<sup>1</sup> Report of the Royal Commission on Labour in India, 1931, page 269.

<sup>2</sup> Labour Investigation Committee, Main Report, 1946 pages 360-361.

### **Model Provident Fund Rules for Industrial Workers**

The subject of compulsory provident funds was discussed in the third conference of Labour Ministers held in January, 1942 and it was considered advisable to prepare a set of model provident fund rules for circulation to employers. A set of model rules was accordingly prepared and placed for discussion in the fifth Labour Conference held in September, 1943 but owing to the short notice, it could not be discussed there.

The subject was again placed in the fourth meeting of the Standing Labour Committee held in January, 1944. Several suggestions were made for amending the model rules in regard to (1) constitution and management of the fund; (2) rate of contribution by employees; (3) eligibility to get benefits of employer's contributions and (4) restrictions on advances. The model rules were subsequently circulated by the Central Government to the then Provincial and State Governments, employers' and employees' organisations for information and adoption, if required.

### **Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948)**

The Board of Conciliation appointed by the Central Government in March, 1947 in connection with trade disputes in Bengal and Bihar coalfields recommended the establishment of a central compulsory provident fund for coal miners. This proposal was discussed in the first meeting of the Industrial Committee on Coal Mining held in January, 1948. Following the discussions the Central Government promulgated the Coal Mines Provident Fund and Bonus Schemes Ordinance on the 23rd April, 1948 authorising the Central Government to frame a provident fund scheme and a bonus scheme for workers in coal mines throughout the country. The Ordinance was replaced by the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948) which received the assent of the Governor General on the 3rd September, 1948.

The Coal Mines Provident Fund Scheme set up under the Act applied originally to all coal miners in the States of West Bengal, Bihar, with retrospective effect from May, 1947 and in Madhya Pradesh and Orissa from October, 1947 and later extended to the collieries of Assam, Talcher, Korea, Rewa, Hyderabad and Rajasthan and is administered by a Board of Trustees consisting of the representatives of the Central Government, State Governments, colliery owners and colliery workers. The membership of the provident fund is compulsory for all employees earning bonus by conforming to a prescribed minimum attendance in a quarter. Employees pay contributions at the rate of about  $\frac{1}{8}$ th of their total earnings and the employers contributing a like amount. The employers also pay an additional five per cent. of the employers' and employees' contributions towards the expenses of the administration of the fund. Members will receive a refund of their total accumulations with the whole or part of employers' contribution depending upon the duration of their membership but in cases of superannuation, death or permanent incapacity, the full amount standing to the member's credit is payable.

### **Workers' Provident Fund Bill, 1948<sup>4</sup>**

A private member's Bill for providing for establishment and grant of provident funds to certain classes of workers by their employers, was introduced in the Constituent Assembly of India (Legislative) on the 11th February, 1948. The Bill

<sup>4</sup> Statement of Objects and Reasons—The Provident Funds Act, 1925 (Act XIX of 1925) is not applicable to workers employed in factories or labourers in industrial establishments such as house-building, quarrying, docks and other such establishments. Under Section 58B(1) of the Income-tax Act 1922, the Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the condition prescribed in Section 58(c) and the rules made thereunder. It will be evident that under section 58B(1)

provides for compulsory establishment of provident funds by every employer in industrial concerns for the betterment of his employees and their families. The mover of the Bill, Sri R. K. Sidhva suggested that that Bill should go to the Select Committee but at the instance of the Government, the Bill was circulated for the purpose of eliciting public opinion by the 30th June, 1949. After the opinions were received, Sri Sidhva again moved on the 16th December, 1949 that the Bill should be referred to a Select Committee. During the course of discussion, the Central Labour Minister remarked that the Government felt that some provision should be made for granting of provident fund facilities not only to the employees in industrial establishments but also to employees in commercial and other undertakings, and gave an assurance that the Government would "try to bring in a comprehensive measure for the introduction of provident fund for all categories of employees, and the scheme will be such that it will embrace also the smaller units"<sup>5</sup>. The Labour Minister further remarked, "By the introduction of a provident fund scheme on an industry-cum-regional basis, the employees in smaller units which by themselves may not be able to maintain or undertake the administrative expenditure necessary for the maintenance of provident fund schemes in those units may not be deprived of the benefits of provident fund"<sup>5</sup>. On the above assurance, Sri Sidhva withdrew the Bill on the 16th December, 1949.

### **Employees' Provident Funds Act, 1952 (XIX of 1952)**

The subject of provident fund for industrial workers was discussed in the 12th meeting of the Standing Labour Committee held in November, 1950 and the Government agreed to draft a Bill and circulate it to the members of the Committee. Subsequently, the Government of India promulgated the Employees' Provident Funds Ordinance on the 15th November, 1951 which came into force from that date in all factories mentioned in Schedule I employing 50 or more persons; but the operative part becoming effective after framing of the Scheme by the Central Government.

The Ordinance was replaced by the Employees' Provident Funds Act which was passed on the 4th March, 1952. The Employees' Provident Funds Scheme framed under the Act and brought into force in the following industries: cement, cigarette, engineering (electrical, mechanical), iron and steel, paper and textile (cotton, woolen, jute or silk), on the 1st November, 1952, covers factories in these industries employing 50 or more persons of not less than three years' standing and exempts

the first move to obtain recognition of provident fund, for employees in factories and in other industrial establishments, should be made by the employer. It is very rare that an employer would volunteer to establish a contributory provident fund for his employees. The main object of the Bill is to make it compulsory for every employer of workers and labourers in the industrial concerns to establish provident fund for the betterment of such employees and their families. From the meagre pay they get, the employees are not in a position to lay by anything for themselves or their family for hay day. Establishment of provident fund will teach them frugality and the advantages of such a system will not meet with any objection or disapproval on their part as they would realise that the Bill aims at the good of their family and for themselves also.

The contribution by the employer will also be impetus for them to join the fund. The interests of the employers and the employees are generally found to be at variance. In order to establish mutual trust and confidence and to cement the differences between the employers and the employees, a measure like the one in this Bill would go a great way to promote mutual healthy relations between the capitalists and the labourers. This Bill seeks to promote growth of spirit of confidence, and with co-ordination of employees, the employers would be able to yield better results. By creating such fund, the employers would attract to themselves a class of labourers which will be contended and in view of the provisions of the Bill, they would prefer to remain attached to a particular employer and there will be few occasions of strike in work. (Indian Labour Gazette, Vol. V, July, 1947 to June, 1948, page 704).

<sup>5</sup> Constituent Assembly of India (Legislative) Debates, 1949, Vol. VI, Part II, p. 671.



factories owned by Government or local authority. The Act extends to the whole of India and covers every employee completing one year's continuous service and drawing a basic monthly wages of Rs. 300/- or less. The Act provides for exemption of factories or class of employees if the provident fund benefits already prevalent in the factory are more advantageous to the employees than the statutory benefits. The contributions of both employers and employees are six and a quarter per cent. of the basic wages and dearness allowance rounded off to the nearest quarter of an anna.

The actual working of the Act revealed certain defects and administrative difficulties which were rectified by the Employees' Provident Funds (Amendment) Act in 1953 (Act No. XXXVII of 1953).

The Act has been extended to 13 additional industries with effect from the 31st of July, 1956.

## COAL MINES PROVIDENT FUND LEGISLATION

### Board of Conciliation and Fact Finding Committees

The Board of Conciliation (Colliery Dispute)<sup>1</sup> which was appointed by the Government of India on the 5th February, 1947 to promote a settlement of trade disputes then existing in the collieries in Bengal and Bihar, made certain recommendations regarding the institution of a compulsory provident fund scheme and the payment of attendance and production bonus to the workers. Two Fact Finding Committees appointed in pursuance of Government Resolution dated the 12th May, 1947 to report on the grant of monetary benefits and concessions to the colliery workers in the Central Provinces and Berar<sup>2</sup> and Orissa and also Assam<sup>3</sup> recommended the constitution of provident funds on the same lines as the collieries in Bengal and Bihar. The recommendations of the Board and Committees were accepted by the Government and the question of their implementation was discussed in the first meeting of the Industrial Committee on Coal Mining held at Dhanbad on the 23rd and 24th January, 1948. Following these discussions, the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948) was promulgated by the Government on the 23rd April, 1948. The Ordinance was the first of its kind in India and provided for statutory constitution of a compulsory provident fund scheme and a bonus scheme for the colliery workers.

### Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948)

A Bill was introduced in the Constituent Assembly (Legislative) on the 9th August, 1948 to replace the Ordinance. The Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948) was passed on the 20th August, 1948 and received the assent of the Governor-General on the 3rd September, 1948.

### Framing of Provident Fund Scheme under the Act

The Act empowers the Central Government to frame the Coal Mines Provident Fund Scheme for the establishment of a provident fund for the employees in coal mines, specifying the coal mines to which the scheme shall apply, the employees who shall join the fund and the conditions under which they may be exempted and the rate, time and manner of payment of contributions by employers and employees. It provides for constitution of a Board of Trustees consisting of the nominees of the Central Government and representatives of employers' and employees' organisations. The Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IX-A of Indian Income-tax Act, 1922 (XI of 1922). To

<sup>1</sup> Gazette of India Extraordinary, dated the 12th May, 1947, page 437.

<sup>2</sup> Gazette of India Extraordinary, dated the 10th October, 1947, page 1149.

<sup>3</sup> Gazette of India Extraordinary, dated the 1st July, 1948, page 935.

meet the cost of administering the scheme, the Act provides for levy of a charge payable by the employer.

### **Framing of Bonus Scheme under the Act**

The Act also empowers the Central Government to frame a scheme to be called the Coal Mines Bonus Scheme (1) providing for payment of bonus dependent on the attendance of an employee in a coal mine during any period, (2) specifying the employees or class of employees eligible for the bonus and the conditions of eligibility, (3) fixing the rate of bonus and manner of calculation, (4) specifying the conditions under which an employee is debarred from getting bonus in whole and in part and (5) fixing the rate at which sums shall be set apart by the employer for payment of bonus and the time and manner of such payment.

### **Protection Against Attachment**

The Act lays down that the amount of the provident fund standing to the credit of any member shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the member. The Act also provides that the amount standing to the credit of any member of the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall vest in the nominee and shall be free from any debt or liability incurred by the deceased or the nominee before the death of the member.

### **Coal Mines Provident Fund Scheme, 1948**

The Coal Mines Provident Fund Scheme framed by the Central Government on the 11th December, 1948 provides for compulsory membership of all colliery workers who qualify for bonus under the Coal Mines Bonus Scheme. The workers contribute, monthly or weekly, approximately one anna per rupee of their basic wages and the employers contribute an equal amount. The contribution is payable by affixing contribution stamps to the cards of the members concerned and the stamps are sold to the employers through treasuries and post offices. The employers have to pay an administrative charge of five per cent. calculated on the total amount of employers' and employees' contributions. The full amount standing to the employee's credit is payable at any time on permanent retirement from service after reaching 50 years and completing five years' membership or on retirement due to permanent incapacity.

The Scheme was originally applied to coal mines in West Bengal and Bihar with retrospective effect from the 12th May, 1947 and to Madhya Pradesh and Orissa from the 10th October, 1947 and was later extended to the coal mines in Assam, Talcher, Korea, Rewa, Vindhya Pradesh and partially excluded areas of Madhya Pradesh, Bihar, Orissa and West Bengal. It was subsequently enforced in Hyderabad from the 12th March, 1956.

### **Coal Mines Bonus Scheme, 1948**

The Coal Mines Bonus Scheme framed by the Central Government on the 3rd July, 1948 applies to colliery workers getting up to Rs. 300/- as basic wages but excludes three types of workers—(1) mali, sweepers or domestic servants, (2) workers in State railway coal mine on pay and under conditions of service similar to those obtaining in other railway establishments and (3) labourers hired by contractors for building, brick or tile-making. Employees covered under the scheme are entitled to one-third of their basic earning as quarterly bonus, provided they fulfil the qualifying period of attendance in each quarter. The qualifying period of attendance in West Bengal and Bihar is 64 days per quarter for underground mines and underground piece-workers and 66 days for others; in other States 60 days for underground miners and underground piece-workers and 65 days for

others. An employee taking part in an illegal strike in any period or quarter, forfeits his right to receive the bonus for that period or quarter.

The Scheme was applied to coal mines in West Bengal and Bihar retrospectively from May, 1947 and to Madhya Pradesh and Orissa from October, 1947. It was later extended to Vindhya Pradesh, Rewa, Korea, Talcher and partially excluded areas of West Bengal, Bihar, Madhya Pradesh and Orissa. It was extended to Hyderabad on the 4th October, 1954, to Rajasthan on the 17th December, 1954 and to Assam on the 8th September, 1955.

### **Administration of the Act**

The Scheme is being administered by a Board of Trustees constituted by the Central Government, consisting of the representatives of the Central and State Governments and of employers' and workers' organisations. The Coal Mines Provident Fund Commissioner administers the fund as the Chief Executive Officer with a Central Office at Dhanbad and is assisted by Inspectors appointed by the Central Government.

### **Amending Acts of 1950 and 1951 (LXXX of 1950 and XXI of 1951)**

The Act was amended in 1950 to remove the doubt about the definition of the expression "employee" and again in 1951 to provide for recovery of contributions from members who fail or refuse to pay.

### **Social Security for Colliery Labour**

The Preparatory Asian Regional Conference held in New Delhi in October-November 1947, unanimously recommended that the Governments of Asian Countries, as a first step towards making adequate provisions against risks of old age and death, should take measures for the institution of compulsory provident funds for as many categories of workers as possible and in particular for all regulated labour and the extension of the scope of the existing state-managed insurance schemes or the introduction of such schemes for the benefit of persons of small means. This question was discussed in the Standing Labour Committee and the Indian Labour Conference held in April, 1948 and there was general agreement about the institution of provident fund. It was pointed out on behalf of the Central Government that if the compulsory provident fund scheme started in the coal fields of West Bengal, Bihar, Central Provinces where labour was mostly casual, proved successful, it would not be difficult to introduce it in other industries and the Ministry of Labour would prepare a comprehensive scheme for other industrial workers.

During the final reading of the Coal Mines Provident Fund and Bonus Schemes Bill in the Constituent Assembly (Legislature), the Central Labour Minister assured that the Government was very anxious to introduce provident fund schemes for other industries as well and the Government stood committed to that.

The introduction of a compulsory provident fund for the colliery worker with a view to make some provisions for his old age is an important measure in the field of social security legislation in India. "The scheme will, in effect, change the status of the miner from a helpless pauper in old age to a man of some means, with something to fall back upon, when his earning ceases."<sup>4</sup> "Thus the Coal Mines Provident Fund and Bonus Schemes Act, 1948, may well prove to be an important landmark in the evolution in India of a system of statutory provision for the wage earner during his old age."<sup>5</sup>

<sup>4</sup> Labour Minister's Broadcast Talk from All-India Radio, Delhi on the 5th September, 1948, (Indian Labour Gazette, Vol. VI, July 1948 to June 1949, page 139.)

<sup>5</sup> A Decade of Labour Legislation in India, 1937-1948, (I.L.O., New Delhi, 1950.)

# **COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948 (XLVI OF 1948)**

## **Statement of Objects and Reasons<sup>1</sup>**

The Board of Conciliation appointed in 1947 in connection with certain disputes in the Bengal and Bihar coalfields recommended the payment of bonus to, and the establishment of a provident fund for, the employees in coal mines. With a view to implementing these recommendations, Government promulgated the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948, on the 23rd April 1948. A Coal Mines Bonus Scheme has since been framed under that Ordinance and the details of a Provident Fund Scheme are being worked out.

2. As the life of an Ordinance is six months, the Ordinance will cease to be effective on the 23rd October, 1948. As the schemes which are being framed under it must be continued beyond that date, this Bill seeks to replace the Ordinance by an Act.

## **1. AMENDING ACT OF 1950 (LXX OF 1950)**

### **Statement of Objects and Reasons<sup>2</sup>**

The expression "employee" is defined by section 2 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948, to mean any person who is employed in any kind of work, manual or otherwise, in or in connection with a coal mine and who gets his wages directly or indirectly from the employer. A doubt has been expressed that by reason of the use of the words "employee in a coal mine" or "employees in coal mines" in certain parts of the Act it is not permissible to extend the provident fund and bonus schemes to persons employed, say, in the central offices of a group of colliery-owners and ancillary organisations, although such offices are situated within the precincts of a mine and are connected with the mine. The present Bill seeks to make the definition apply uniformly throughout the Act. Ample powers exist in the Act to determine the employees or class of employees who shall be entitled to join the fund.

## **2. AMENDING ACT OF 1951 (XXI OF 1951)**

### **Statement of Objects and Reasons<sup>3</sup>**

The Coal Mines Provident Fund Scheme framed under the Coal Mines Provident Fund and Bonus Schemes Act, 1948, provides for contribution both by the employers as well as the employees in equal proportion. Although contributions have all along been made on this basis, paragraph 2 of the First Schedule to the Act refers only to contributions by the employers on behalf of the employees which they subsequently recover from the employees' wages, and not the contributions which the employers themselves are required to make for the benefit of the employees. The Act also does not provide for the manner in which employers' contributions are to be recovered from those who fail to refuse to pay. The present Bill seeks to remedy these defects.

# **COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948 (XLVI OF 1948)**

## **Arrangement of Sections**

1. Short title and extent.
2. Interpretation.
3. Coal Mines Provident Fund Scheme.
4. Fund to be recognised under Act XI of 1922.
5. Coal Mines Bonus Scheme.
6. Retrospective operation of a scheme.
7. Modification of a scheme.
8. Protection against attachment.
9. Penalty.

<sup>1</sup> Gazette of India, 1948, Part V, page 607.

<sup>2</sup> Gazette of India, 1950, Part II—Section 2, page 306.

<sup>3</sup> Gazette of India Extraordinary, 1951, Part II—Section 2, page 216.

10. Inspectors.
  - 10A. Mode of recovery of money due from an employer.
  11. Priority of payment of contributions and bonus over other debts.
  - 11A. Protection for acts done in good faith.
  12. Repeal of Ordinance VII of 1948.
- SCHEDULE

## COAL MINES PROVIDENT FUND AND BONUS SCHEMES ACT, 1948 (XLVI OF 1948)<sup>1</sup>

*An Act to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines.*

[3rd September, 1948.]

Whereas it is expedient to make provision for the framing of a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines:

It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

<sup>2</sup>[(2) It extends to whole of India except the State of Jammu and Kashmir.]

**2. Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

- (a) “bonus” means any sum of money payable to an <sup>3</sup>[employee] under the Coal Mines Bonus Scheme framed under this Act;
- (b) “coal mine” means any excavation where any operation for the purpose of obtaining coal has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a coal mine:

Provided that it shall not include any part of the coal mine on which a manufacturing process is being carried on unless such process is a process for coke-making or the dressing of minerals;

- (c) “contribution” means the contribution payable in respect of a member under the Coal Mines Provident Fund Scheme framed under this Act;
- (d) “employee” means any person who is employed in any kind of work, manual or otherwise, in or in connection with a coal mine and who gets his wages directly or indirectly from the employer;
- (e) “employer” means the owner of a coal mine as defined in clause (g) of section 3 of the Indian Mines Act, 1923 (IV of 1923);
- (f) “Fund” means the provident fund established under the Coal Mines Provident Fund Scheme; and
- (g) “member” means a member of the Fund.

**3. Coal Mines Provident Fund Scheme.**—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Provident Fund Scheme for the establishment of a provident fund for <sup>4</sup>[employees] and specify the coal mines to which the said scheme shall apply.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, dated the 21st August, 1948, Part V, page 607, See also page 1135 ante.

<sup>2</sup> Subs. by the Adaptation of Laws Order, 1950 and amended by Section 2 of the Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1950 (LXXX of 1950).

<sup>3</sup> Substituted for the words ‘employee in a coal mine’ by Act LXXX of 1950.

<sup>4</sup> Substituted for the words “employees in coal mines”, *ibid.*

(2) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the First Schedule.

**4. Fund to be recognised under Act XI of 1922.**—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IX-A of that Act.

**5. Coal Mines Bonus Scheme.**—(1) The Central Government may, by notification in the official Gazette, frame a scheme to be called the Coal Mines Bonus Scheme for the payment of bonus to <sup>4</sup>[employees] and specify the coal mines to which the said scheme shall apply.

(2) A scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Second Schedule.

**6. Retrospective operation of a scheme.**—A scheme framed under this Act may provide that any of its provisions shall come into force either prospectively or retrospectively with effect from such date as may be specified in this behalf in the scheme.

**7. Modification of a scheme.**—The Central Government may, by notification in the official Gazette add to, amend or vary a scheme framed under this Act.

**8. Protection against attachment.**—(1) The amount of the provident fund standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Court in respect of any debt or liability incurred by the member and neither the Official Assignee nor any Receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any member in the Fund at the time of his death and payable to his nominee under the Coal Mines Provident Fund Scheme shall, subject to any deduction authorised by the said scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member.

**9. Penalty.**—(1) Any scheme framed under this Act may provide that any person who contravenes any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No Court shall take cognizance of any offence punishable under any such scheme except on a report in writing of the facts constituting such offence made by an Inspector with the previous sanction of such authority as may be specified in this behalf by the Central Government.

**10. Inspectors.**—(1) The Central Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of the Coal Mines Provident Fund Scheme or the Coal Mines Bonus Scheme and may define their jurisdiction.

(2) An Inspector may, in respect of any coal mine within his jurisdiction,—

(a) require an employer to furnish such information as he may consider necessary for the purposes of any scheme framed under this Act;

(b) at any reasonable time, enter any coal mine or its office and require any one found in charge thereof to produce before him such accounts, books, registers and other documents relating to the employment of persons in the coal mine as he may consider necessary;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person

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<sup>4</sup> Subs. for the words "employers in Coal Mines," by Act LXXX of 1950.

found in charge of the coal mine or its office or whom the Inspector has reasonable cause to believe to be or to have been an employee in the coal mine.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

<sup>5</sup>[10A. **Mode of recovery of money due from an employer.**—Any amount due from an employer in respect of any contribution or bonus under any scheme framed under this Act may be recovered by the Central Government in the same manner as an arrear of land revenue.]

11. **Priority of payment of contributions and bonus over other debts.**—The amount due in respect of any contribution or bonus under a scheme framed under this Act, or any charges incurred in respect of the administration of any such scheme, shall, where the liability therefor has accrued before the person liable has been adjudicated insolvent or, in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of a company being wound up, as the case may be.

<sup>6</sup>[11A. **Protection for acts done in good faith.**—No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act or under any scheme framed thereunder.]

12. **Repeal of Ordinance VII of 1948.**—(1) The Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948), is hereby repealed.

(2) Notwithstanding any such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 23rd day of April, 1948.

#### THE FIRST SCHEDULE (See Section 3)

##### *Matters to be provided for in the Coal Mines Provident Fund Scheme.*

1. The employees or class of employees who shall join the Fund, the contributions payable to the Fund and the conditions under which an employee may be exempted from joining the Fund or from payment of contributions.

<sup>7</sup>[2. Payment of contributions to the Fund by employers and by, or on behalf of, employees, the rate, time and manner of such payment and the manner in which such contributions may be recovered.]

3. The payment by the employer of such sums of money as may be considered necessary to meet the cost of administering the Fund and the rate at which and the manner in which <sup>8</sup>[the payment shall be made.]

4. The constitution of a Board of Trustees consisting of nominees of the Central Government and representatives of employers and employees nominated by the Central Government in consultation with the representative organisations concerned, subject to the condition that the number of the representatives of the employees shall not be less than the number of the representatives of the employers; the number of Trustees and the terms and conditions under which they may be nominated, and the time, place and procedure of meetings of the Board.

5. The appointment of officers and servants of the Board and the opening of regional and other offices.

<sup>5</sup> Inserted by Act XXI of 1951.

<sup>6</sup> Inserted by Act LXXX of 1950.

<sup>7</sup> Substituted by Act XXI of 1951.

<sup>8</sup> Substituted for the words "it shall be paid", *ibid*.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund, the preparation of a budget, the audit of accounts and the submission of reports to the Central Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.

8. The fixation of the rate of interest payable to members by the Central Government in consultation with the Board of Trustees.

9. The form in which an employee shall furnish particulars about himself and his family when required.

10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or the change of such nomination.

11. The registers and records to be maintained by the employer and the returns to be furnished by him.

12. The form or design of an identity card or a token or a disc for purposes of identifying any employee and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.

14. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Provident Fund Scheme.

#### THE SECOND SCHEDULE (See Section 5)

##### *Matters to be provided for in the Coal Mines Bonus Scheme.*

1. The payment of bonus dependent on the attendance of an "[employee]" during any period.

2. The employees or class of employees who shall be eligible for the bonus and the conditions of eligibility.

3. The rate at which the bonus shall be payable to an employee and the manner in which the bonus shall be calculated.

4. The conditions under which an employee may be debarred from getting the bonus in whole or in part.

5. The rate at which sums shall be set apart by the employer for payment of bonus, and the time and manner of such payment.

6. The registers and records to be maintained by the employer and the returns to be furnished by him.

7. Any other matter which may be necessary or proper for the purpose of implementing the Coal Mines Bonus Scheme.

## COAL MINES BONUS SCHEME, 1948

### Arrangement of Paragraphs

1. Short title and application.
2. Definitions.
3. Class of employees eligible to qualify for bonus.
4. Qualification for bonus in coal mines in West Bengal and Bihar.
5. Qualification for bonus in coal mines in the Central Provinces and Berar and Orissa.
6. Allowance for leave, etc.
7. Amount of bonus.
8. Effect of participation in illegal strike.
9. When bonus payable.
10. Returns.
11. Registers.
- 11A. Obligation to produce documents before Inspector
12. Penalties.

#### SCHEDULE

\* Substituted for the words "employee in a coal mine" by Act LXXX of 1950.



## COAL MINES BONUS SCHEME, 1948<sup>1</sup>

In exercise of the powers conferred by section 6 of the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948), the Central Government is pleased to frame the following Coal Mines Bonus Scheme, namely:—

**1. Short title and application.**—(i) This Scheme may be called the Coal Mines Bonus Scheme.

<sup>2</sup>[(ii) It shall apply to all coal mines in West Bengal, Bihar, the Central Provinces and Berar and Orissa including those in partially excluded areas in the Provinces of [West Bengal], Bihar, Central Provinces and Berar and Orissa to which the Coal Mines Provident Fund and Bonus Schemes Act, 1948 has been applied under sub-section (1) of Section 92 of the Government of India Act, 1935.

(iii) The provisions of this Scheme shall be deemed to have come into force on the 12th of May, 1947 in respect of the coal mines in West Bengal and Bihar including those situated in the partially excluded areas of the Province of Bihar and on the tenth of October, 1947 in respect of the coal mines in the Central Provinces and Berar and Orissa including those situated in the partially excluded areas in these Provinces.]

**2. Definitions.**—In this Scheme unless there is anything repugnant in the subject or context—

“[(aa) “basic earnings” means the total cash emoluments, whether earned while on duty or while on leave with pay, but excluding all payments for food concession, dearness, house rent and other similar allowances, overtime, commission, presents or donations];

(a) “category I employee” means an underground miner or any other underground piece worker ;

(b) “category II employee” means an employee in a coal mine other than a category I employee ;

(c) “Chief Inspector of Mines” has the meaning assigned to it in sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923);

(d) “Illegal strike” means a strike which is illegal within the meaning of Section 24 of the Industrial Disputes Act, 1947 (XIV of 1947) ;

(e) “quarter” means a period of three calendar months commencing on the first of January, the first of April, the first of July, and the first of October of each year ;

(f) “Ordinance” means the Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948) ;

(g) “Regional Labour Commissioner” means an officer appointed as such by the Central Government ; and

(h) “temporary disablement” means a condition resulting from a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in a coal mine, which requires medical treatment and renders the employee temporarily incapable of work and which entitles such employee to compensation under the Workmen’s Compensation Act, 1923 (VIII of 1923).

**3. Class of employees eligible to qualify for bonus.**—Except as hereinafter provided every employee in a coal mine to which this Scheme applies shall be eligible to qualify for a bonus.

**Exceptions.**—An employee in a coal mine shall not be entitled to a bonus under the Scheme for the period during which—

(a) his basic earnings exceed three hundred rupees per month ; or

(b) he is employed as a mali, sweeper or domestic servant on domestic and personal work ; or

<sup>1</sup> This Scheme was published under the Ministry of Labour Notification No. PF 16 (1)/48 dated the 3rd July, 1948.

<sup>2</sup> These sub-paragraphs with the exception of the words “West Bengal” in sub-para. (ii) were substituted by Notification No. PF. 15(9)/50, dated the 9th January, 1950.

<sup>3</sup> The words “West Bengal” inserted by Notification No. PF. 15(9)/50, dated the 23rd February, 1950.

<sup>4</sup> Inserted by Notification No. PF. 15(45), dated the 9th August, 1950.

<sup>5</sup>[(c) he is employed in a State Railway coal mine on pay and under conditions of service, which for the time being, are similar to those obtaining in other railway establishments or under conditions of service which entitle him to pension under the Civil Rules, or]

(d) he is employed as a labourer of a contractor for building, brick-making or tile-making.

**4. Qualification for bonus in coal mines in West Bengal and Bihar.**—An employee in a coal mine in West Bengal or Bihar shall qualify for a bonus from his employer—

(a) in respect of the period from the twelfth of May, 1947 to the thirty-first of December, 1947; provided he has put in attendance in the coal mine during that period for not less than 121 days if a category I employee, or for not less than 169 days if a category II employee;

(b) in respect of the quarter commencing on the first of January, 1948 or any subsequent quarter, provided he puts in attendance in the coal mine during that quarter for not less than 54 days if a category I employee, or for not less than 66 days if a category II employee.

<sup>6</sup>[Exception.—A coal cutter, a filler, a member of a drilling and dressing team on hand held electric and compressed air drills employed in the collieries owned by the Singareni Collieries Company Limited to which this Scheme applies shall be entitled to a bonus from his employer in respect of his attendance during any quarter provided that he has worked at the coal mine during that quarter for not less than fifty-two days.]

**5. Qualification for bonus in coal mines in the Central Provinces and Berar and Orissa.**—An employee in a coal mine in the Central Provinces and Berar or Orissa shall qualify for a bonus from his employer—

(a) in respect of the period from the tenth of October, 1947 to the ninth of January, 1948, provided he has put in attendance in the coal mine during that period for not less than 60 days if a category I employee, or for not less than 65 days if a category II employee;

(b) in respect of the period from the tenth of January, 1948 to the thirty-first of March, 1948, provided he has put in attendance in the coal mine during that period for not less than 54 days if a category I employee, or for not less than 59 days if a category II employee;

(c) in respect of the quarter commencing on the first of April 1948, or any subsequent quarter, provided he puts in attendance in a coal mine during that quarter for not less than 60 days if a category I employee, or for not less than 65 days if a category II employee.

**6. Allowance for leave, etc.**—(1) For the purposes of paragraphs 4 and 5 of this Scheme, leave (including sick leave) granted by the employer to an aggregate of 21 days in calendar year and days of idleness caused by any temporary breakdown of machinery or any other technical reason <sup>7</sup>[or by any lock-out which is illegal under section 24 of the Industrial Disputes Act, 1947 and days of absence from work on account of compulsory attendance in a court of law,] shall count as days of attendance.

(2) If on any working day in any period or quarter, as the case may be, an employee is on maternity leave or is unable to attend work owing to temporary disablement, the number of days for which he must put in attendance to qualify for bonus under paragraphs 4 and 5 shall be reduced by 70 per cent. of such working days if a category I employee, or by 85 per cent. of such working days if a category II employee.

*Explanation.*—In calculating the 70 per cent. or 85 per cent. of such working days, a fraction less than half shall be disregarded and not less than half shall count as one.

(3) If in any period or quarter any day, other than the weekly holiday, is observed as a closed holiday in any coal mine the number of days for which the employees must put in attendance in such period or quarter to qualify for bonus under paragraphs 4 and 5 shall be reduced, in respect of such coal mine by one if there be not more than two such closed holidays, by two if there be more than two but not more than four such closed holidays and by three if there be more than four such closed holidays: Provided that the number of days so reduced in a year shall not exceed three. In the event of a dispute

<sup>5</sup> Substituted by Notification No. S.R.O. 2405 dated the 13th July, 1954.

<sup>6</sup> Inserted by Notification No. S.R.O. 458 dated the 1st February, 1954.

<sup>7</sup> Inserted by Notification No. PF. 2(11)/52, dated the 24th April, 1952.

<sup>12</sup>[(3) Whoever, in contravention of the provisions of paragraph 11A refuses or fails to produce any document before an Inspector shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.]

#### SCHEDULE—(See paragraph 7)

*Amount of Bonus before deduction for provident fund payable in coal mines in West Bengal and Bihar, for the period from 12th May, 1947 to 31st December, 1947*

#### PIECE-RATED EMPLOYEES

- (a) Underground piece workers (including underground piece-rated trammers and surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—12 annas) Rs. 49/12/- each.
- (b) Male surface piece-rated workers (other than surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—8 annas) Rs. 33/4/- each.
- (c) Female wagon loaders on piece work (assumed daily basic wage—7½ annas) Rs. 31/3/- each.
- (d) Other females and minors on piece work (assumed daily basic wage—5 annas) Rs. 20/12/- each.

#### OTHER EMPLOYEES

For the monthly rated employees the amount stated in Table A against the basic wage payable for the last month of the period and for other employees the amount as stated in Table B against the basic wage payable for the first working day of the last month of the period, irrespective of whether or not the employee actually attended work in that month or on that day. For weekly rated employees the basic wage payable for the first working day of the last month of the period shall be taken to be one-sixth of the basic wage payable if the employee had attended work throughout the week containing that day.

*For the quarter from 1st January, 1948 to 31st March, 1948 and from 1st April, 1948 to 30th June, 1948*

#### PIECE-RATED EMPLOYEES

- (a) Underground piece workers (including underground piece-rated trammers and surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—12 annas) Rs. 19/8/- each.
- (b) Male surface piece-rated workers (other than surface piece-rated trammers and male wagon loaders) (assumed daily basic wage—8 annas) Rs. 13/- each.
- (c) Female wagon loaders on piece work (assumed daily basic wage—7½ annas) Rs. 12/3/- each.
- (d) Other females and minors on piece work (assumed daily basic wage—5 annas) Rs. 8/2/- each.

#### OTHER EMPLOYEES

Monthly rated employees—Basic pay for the last month of the quarter.

Other time-rated employees—26 times the basic wage payable for the first working day of the last month of the quarter and for the weekly rated worker 26 times the daily rate of basic wage for the last complete week of the quarter irrespective of whether or not the employee actually worked on that day or in that week.

*Explanation.*—A weekly rated worker is a worker whose wage is expressed as a stated amount per week as opposed to a daily rated worker who is paid a stated amount per day, but who receives his earning weekly.

<sup>12</sup> Inserted by Notification No. P.F.2(11)/52 dated the 24th April, 1952.

TABLE A		TABLE B	
Basic wage per month	Gross amount of Bonus	Basic wage per day	Gross amount of Bonus
Rs. as.	Rs. as.	Rs. as.	Rs. as.
0 4	0 10	0 5	20 12
0 8	1 4	0 6	24 15
1 0	2 9	0 7	29 1
2 0	5 2	0 7½	31 3
3 0	7 11	0 8	33 4
4 0	10 4		
5 0	12 13	0 9	37 6
20 0	51 2	0 10	41 9
25 0	63 15	0 11	45 11
		0 12	49 14
		0 13	54 0
		0 14	58 0
		0 15	62 5
		1 0	66 8
30 0	76 12	1 1	70 10
40 0	102 5	1 2	74 13
50 0	127 14	1 3	78 15
60 0	153 7	1 4	83 2
70 0	179 0	1 5	87 4
80 0	204 9	1 6	91 7
90 0	230 3	1 7	95 9
100 0	255 12	1 8	99 12
		1 9	103 14
		1 10	108 1
110 0	281 5	1 11	112 3
120 0	306 14	1 12	116 6
130 0	332 7	1 13	120 8
140 0	358 1	1 14	124 11
150 0	383 10	1 15	128 13
160 0	409 3	2 0	133 0
170 0	434 12		
180 0	460 5	2 1	137 2
190 0	485 14	2 2	141 5
200 0	511 8	2 3	145 7
		2 4	149 10
		2 5	153 12
		2 6	157 15
		2 7	162 1
		2 8	166 4
210 0	537 1	2 9	170 6
220 0	562 10	2 10	174 9
230 0	588 3	2 11	178 11
240 0	613 12	2 12	182 14
250 0	639 6	2 13	187 9
260 0	664 15	2 14	191 3
270 0	690 8	2 15	195 5
280 0	716 1	3 0	199 8
290 0	741 10		
300 0	767 3		

FORM I—(See paragraph 10)

Name of employer.....Employer No.....

Address.....Period or Quarter.....to.....19 ..

Nature of employment	No. of employees who worked in the coal mine in the period or quarter	No. of employees who qualified for bonus for the period or quarter	Amount of bonus payable	No. of employees out of (3) to whom bonuses have actually been paid	Amount of bonuses out of (4) actually paid	No. of employees to whom bonuses have not been paid	Amount of bonus due but not paid
1	2	3	4	5	6	7	8

Supervisory and clerical .

Underground . . . .

Minors and other underground  
piece workers . . . .

Other underground workers .

Others . . . .

Men . . . .

Women . . . .

Minors . . . .

TOTAL .

FORM II—(See paragraph 10)

Name of employer.....  
Address.....  
Employer No.....  
Period or Quarter..... to.....19.....

Serial No.	P. F. Account No.*	Name of employee	Amount of bonus due but not paid	Remarks†
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\*The column may be left blank till Account Numbers are allotted  
† If a bonus is paid after the time-limit, say since paid.

FORM III—(See paragraph 11)

All entries to be made in English

Register of persons employed underground during the week commencing.....and ending.....19.....  
Name of Mine.....Name of Owner.....  
(Time should be recorded against an entry whenever it differs from the hours of relay stated above)

(Time should be recorded against an entry wherever it differs from the hours of relay stated above)																				
Sr. No.	Name of persons	Nature of work	Relay	Aggregate number of attendances during the week.							Aggregate number of absentees during the week.									
				Sunday in out	Monday in out	Tuesday in out	Wednesday in out	Thursday in out	Friday in out	Saturday in out	Number of days worked during the week	17	18	19	20	21				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Weekly Abstract Classification				Aggregate number of attendances during the week.																
Miners and loaders.....																				
Others.....																				

Manager.....  
Date.....  
Signature of Register-keeper.....  
Date.....

## FORM IV—(See paragraph 11)

*All entries to be made in English*

Number of Relay.....Hours of Relay.....

Register of persons employed in Open Workings during the week commencing.....and ending.....19

Name of Mine.....Name of Owner.....

(Time should be recorded against an entry wherever it differs from the hours of relay stated above)

Sr. No.	Name of persons	Nature of work	Relay		Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Number of days worked during the week	Hours worked during the week	Remarks
			in	out	in	out	in	out	in	out	in			

*Weekly Abstract Classification*

Aggregate number of attendances during the week.

Aggregate number of absentees during the week.

Miners and loaders.....

Others.....Manager

Women.....Date.....

Signature of Register-keeper.

Date.....

## FORM V—(See paragraph 11)

*All entries to be made in English*

Number of Relay.....Hours of Relay.....

Register of persons employed on surface during the week commencing.....and ending.....19

Name of Mine.....Name of Owner.....

(Time should be recorded against an entry wherever it differs from the hours of relay stated above)

Sr. No.	Name of persons	Nature of work	Relay	Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Hours worked during the week	Remarks
				in	out	in	out	in	out	in	out	in	out	in	out	in	out		

*Weekly Abstract Classification*

Aggregate number of attendances during the week.

Aggregate number of absentees during the week.

Men.....

Manager

Signature of Register-keeper.

Women.....Date.....

Date.....

# COAL MINES PROVIDENT FUND SCHEME, 1948

## Arrangement of Paragraphs

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3. Composition of Board of Trustees.
4. Terms of office.
5. Resignation.
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7. Removal from membership.
8. Absence from India.
9. Filling of vacancies.
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11. Authentication of orders, decisions, etc.
12. Delegation of powers by the Board.
13. Disposal of business.
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15. Notice of meeting and list of business.
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20. Acts of the Board not invalid by reason of defect in Constitution, etc.
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  70. Punishment for failure to pay contributions, etc.
- SCHEDULE.  
FORMS.

### COAL MINES PROVIDENT FUND SCHEME, 1948<sup>1</sup>

In exercise of the powers conferred by section 3 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948), the Central Government is pleased to frame the following Coal Mines Provident Fund Scheme, namely:—

**1. Short title and application.**—(i) This Scheme may be called the Coal Mines Provident Fund Scheme.

<sup>2</sup>[(ii) It shall apply to all coal mines in West Bengal, Bihar, the Central Provinces and Berar and Orissa including those in partially excluded areas in the Provinces of <sup>3</sup>[West Bengal], Bihar, Central Provinces and Berar and Orissa to which the Coal Mines Provident Fund and Bonus Schemes Act, 1948 has been applied under sub-section (1) of section 92 of the Government of India Act, 1935.

(iii) The provisions of this Scheme shall be deemed to have come into force on the 12th of May, 1947 in respect of the coal mines in West Bengal and Bihar including those situated in the partially excluded areas of the Province of Bihar and on the tenth of October, 1947 in respect of the coal mines in the Central Provinces and Berar and Orissa including those situated in the partially excluded areas in these Provinces.]

**2. Definitions.**—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "Act" means the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948);
- (b) "basic wages" means the total cash emoluments, whether earned while on duty or while on leave with pay, but excluding all payments for food concession, dearness, house rent and other similar allowances, overtime, bonus, commission, presents or donations;
- (c) "Board" means the Board of Trustees constituted under paragraph 3 of this Scheme;
- (d) "children" means legitimate children and includes adopted children if the <sup>3a</sup>[Commissioner] is satisfied that under the personal law of the member, adoption of a child is legally recognised;
- (e) "Commissioner" means the Coal Mines Provident Fund Commissioner appointed under paragraph 23 of this Scheme;
- (f) <sup>3b</sup> \* \* \* \* \*

<sup>1</sup> This Scheme was published under the Ministry of Labour Notification No. PF 15(5)/48 dated the 11th December, 1948.

<sup>2</sup> These sub-paragraphs with the exception of the words "West Bengal" in sub-para (ii) substituted for the original ones by Notification No. PF 15(9)/50 dated the 9th January, 1950.

<sup>3</sup> The words "West Bengal" inserted by Notification No. PF 15(9)/50 dated the 23rd February, 1950.

<sup>3a</sup> Subs. for the words "Executive Committee" by Notification No. S.R.O. 1340 dated the 1st June, 1956.

<sup>3b</sup> Omitted, *ibid.*

(g) "excluded employee" means an employee who having been a member of the Fund once, withdrew the full amount of his accumulations in the Fund on permanent retirement after attainment of the age of 50 years or on retirement on account of total incapacity due to bodily or mental infirmity;

(h) "family" means—

(i) in the case of a male member, the wife, children and dependent parents of the member, and the widow and children of a deceased son of the member:

Provided that if a member proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouse belongs to be entitled to maintenance she shall no longer be deemed to be a part of the member's family in matters to which this Scheme relates, unless the member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded; and

(ii) in the case of a female member, the husband and children of the member, the dependent parents of the husband, and the widow and children of a deceased son of the member:

Provided that if a member by notice in writing to the Commissioner expresses her desire to exclude her husband from the family, the husband shall no longer be deemed to be a part of the member's family in matters to which this Scheme relates unless the member subsequently cancels in writing any such notice.

*Explanation.*—In either of the above two cases, if the child of a member has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised such a child shall be considered as excluded from the family of the member;

(i) "Inspector" means a person appointed as such under section 10 of the Act;

(j) "member" shall have the meaning assigned in the Act and shall include initial member;

(k) "period of membership" means in respect of a member the period beginning with the date from which the first contribution is paid in respect of such member and ending with the date of the application on which he is permitted to withdraw the amount standing to his credit in the Fund under paragraph 63;

(l) "quarter" means a period of three calendar months commencing on the first of January, the first of April, the first of July and the first of October of each year;

(m) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (IV of 1936);

**3. Composition of Board of Trustees<sup>abb</sup>** \* \* \*—(1) The Fund shall be administered by a Board of Trustees to be constituted by the Central Government consisting of the following persons, namely:—

(a) a Chairman, nominated by the Central Government;

(b) not more than six persons, to be nominated by the Central Government, of whom at least three shall be officials of that Government;

(c) (i) two persons, nominated by the Indian Mining Association; (ii) one person, nominated by the Indian Mining Federation; (iii) one person, nominated by the Indian Colliery Owners Association; (iv) one person, nominated by the C. P. and Berar Mining Association; (v) one person, nominated by the Central Government to represent other employers;

(d) six persons, representing employees in coal mines to be nominated by the Central Government of whom—(i) five shall be nominated in consultations with such organisations of employees as may be recognised by the Central Government, at least one nominee being an employee; and (ii) one shall represent the employees outside the organisations:

Provided that if any of the bodies referred to in sub-clauses (i) to (iv) of clause (c) fails to make the nomination within a period of thirty days from the date on which the Central Government asks for it, the Central Government may itself make the nomination.

<sup>30</sup> \* \* \* \* \*

<sup>30</sup>[(2)] The Minister for Labour in the Government of India may attend any meeting of the Board <sup>30</sup>\* \* \* and when he so attends, he shall preside at the meeting.

<sup>30</sup>[(3)] The Secretary to the Government of India in the Ministry of Labour may also attend any meeting of the Board <sup>30</sup>\* \* \* and when he so attends, he shall, unless the Minister for Labour is also present, preside at the meeting.

<sup>3bb</sup> The words "and Executive Committee" omitted by Notification No. S.R.O. 1340 dated the 1st June, 1956.

<sup>30</sup> Sub-paragraph (2) omitted and sub-paragraphs (3) and (4) renumbered (2) and (3), and the words "of the Committee" after the word "Board" omitted, *ibid.*

**4. Terms of office.**—(1) Save as otherwise expressly provided in this Scheme the term of office of the trustees other than those referred to in clauses (a) and (b) of sub-paragraph (1) of paragraph 3 shall be five years commencing on the date on which their nomination is notified in the Official Gazette:

Provided that a trustee shall notwithstanding the expiry of the said period of five years continue to hold office until the nomination of his successor is notified.

(2) The trustee referred to in clauses (a) and (b) of sub-paragraph (1) of paragraph 3 shall hold office during the pleasure of the Central Government.

3d \* \* \* \*

<sup>3d</sup>[(3)] An out-going trustee <sup>3d</sup>\* \* \* shall be eligible for re-nomination <sup>3d</sup>\* \* \*

**5. Resignation.**—A trustee<sup>3e</sup> \* \* \* may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

**6. Cessation of membership.**—A trustee<sup>3e</sup> \* \* \* shall cease to be such trustee<sup>3e</sup> \* if he fails to attend three consecutive meetings of the Board<sup>3e</sup> \* \* \* without obtaining leave of absence from the Chairman of the Board.<sup>3e</sup> \* \* \*

Provided that the Central Government may restore him to trusteeship<sup>3ee</sup> \* \* \* if it is satisfied that there were reasonable grounds for the absence.

**7. Removal from membership.**—The Central Government may remove from office any trustee if it is satisfied that the trustee has ceased to represent the interests on whose behalf he was nominated.<sup>3ee</sup> \* \* \*

**8. Absence from India.**—(1) Before a non-official trustee leaves India—(a) he shall intimate to the Chairman of the Board<sup>3ee</sup>\* \* \* of the dates of his departure from and expected return to India, or (b) if he intends to absent himself for a longer period than six months, he shall tender his resignation.

(2) If any trustee leaves India without intimation to the Chairman of the Board, he shall be deemed to have resigned from the Board with effect from the date of his departure from India.

**9. Filling of vacancies.**—(1) Not less than one month but not earlier than two months before the tenure of trustees other than trustees nominated by the Central Government is to expire, or when any casual vacancy occurs among any such trustees, the Central Government shall, by notice in writing, call upon the body concerned to nominate a person to fill the vacancy and such nomination shall be made within thirty days of the date of issue of such notice:

Provided that if any body fails to make the nomination within the period specified, the Central Government may itself nominate a person and fill the vacancy.

(2) Vacancies in the office of nominated<sup>3f</sup> \* \* \* trustees<sup>3f</sup> \* \* \* shall be filled by nomination. <sup>3f</sup>\* \* \*

<sup>3f</sup> \* \* \* \*

(3) A trustee<sup>3g</sup> \* \* \* nominated <sup>3g</sup>\* \* \* to fill a casual vacancy shall hold office only for so long as the member in whose place he is nominated<sup>3g</sup> \* \* \* would have been entitled to hold office if the vacancy had not occurred.

**10. Vacation of office.**—A person shall be disqualified for being a trustee—(a) if he is declared to be of unsound mind by a competent Court; or (b) if he is an undischarged insolvent; or (c) if he has been convicted of any offence which in the opinion of the Central Government involved moral turpitude.

**11. Authentication of orders, decisions, etc.**—All orders and decisions of the Board <sup>3h</sup>\* \* \* shall be authenticated by the signature of its Chairman or by some other officer or member of the Board<sup>3h</sup> \* \* \* authorised by it in this behalf.

<sup>3d</sup> Sub-paragraphs (3) and (4) omitted and sub-paragraph (5) renumbered (3) and the words "or member of the Committee", "or re-election as the case may be" omitted, *ibid.*

<sup>3c</sup> The words "or member of the Committee," "or member," "or the Committee", "or the Committee as the case may be" omitted, *ibid.*

<sup>3ee</sup> Several words omitted, *ibid.*

<sup>3f</sup> The words "or elected", "or members of the Committee", "or election as the case may be" and the Proviso omitted, *ibid.*

<sup>3g</sup> The words "or member of the Committee," "or elected" omitted, *ibid.*

<sup>3h</sup> The words "or the Committee", "or Committee as the case may be", omitted, *ibid.*

<sup>4</sup>[12. **Delegation of powers by the Board.**—(1) The Board may direct that all or any of the powers and functions which may be exercised or performed by it, may, in relation to such matters and subject to such conditions, if any, as may be specified by it also be exercised or performed by the Chairman of the Board or the Commissioner or any other Officer subordinate to him.

(2) All delegations heretofore made by the Board to any of the authorities mentioned in sub-paragraph (1) above, shall in so far as they could be made under that sub-paragraph if it had then been in force be deemed to have been made under this paragraph.]

13. **Disposal of business.**—(1) Every question which is to be considered by the Board shall be considered either at its meeting or, if the Chairman so directs, by sending the necessary papers to all the trustees for their opinion:

Provided that the paper need not be sent to a trustee who is absent from India at that time.

(2) When a question is referred under sub-paragraph (1) for opinion, any trustee may request that the question be considered at a meeting of the Board and thereupon the Chairman, may, and if the request is made by not less than three trustees, shall, direct that it be so considered.

14. **Meetings of Board of Trustees.**—The Board shall meet at such place and time as may be appointed by the Chairman of the Board.

15. **Notice of meeting and list of business.**—(1) Notice of not less than fifteen days from the date of posting shall be given of the time and place fixed for each ordinary meeting of the Board to every trustee present in India and to such notice shall be attached a list of business to be discussed at the meeting:

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary, shall be deemed sufficient.

(2) No business which is not on the list shall be considered at the meeting except with the permission of the Chairman.

16. **Presiding at meeting.**—The Chairman of the Board <sup>4a\*</sup> \* \* \* shall, save as provided in sub-paragraphs (2) and (3) of paragraph 3, preside at every meeting of the Board <sup>4a</sup> \* \* \* at which he is present. If the Chairman is absent at any time, the trustees present shall elect one of their member to preside over the meeting and the trustee so elected shall at that meeting exercise all the powers of the Chairman.

17. **Quorum.**—(1) No business shall be transacted at a meeting of the Board, whether ordinary or emergent, unless at least seven trustees are present of whom at least two shall be trustees nominated under clause (c) and at least two nominated under clause (d) of sub-paragraph (1) of paragraph 3.

<sup>4aa</sup> \* \* \* [2] If at any meeting the number of trustees <sup>4aa</sup> \* \* \* is less than the required quorum, the Chairman shall adjourn the meeting to a date not less than seven days later informing the trustees <sup>4aa</sup> \* \* \* present and also the other trustees <sup>4aa</sup> \* \* \* of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting whether the quorum is secured or not.

18. **Recommendation by majority.**—(1) Every question at a meeting of the Board shall be decided by a majority of votes of the trustees present and voting, but the minority may require their dissent to be noted.

(2) Every question referred to the trustees for opinion shall, unless the Chairman in pursuance of sub-paragraph (2) of paragraph 13 reserves it for consideration at a meeting, be decided in accordance with the opinions received within the time limit allowed.

(3) In the case of equality of votes or opinions, the Chairman shall exercise an additional vote or opinion.

19. **Minutes of meetings.**—(1) The proceedings of a meeting of the Board shall be circulated to all trustees present in India and thereafter they shall be recorded in a minute book to be kept as a permanent record.

(2) The record of the proceedings of each meeting shall be signed by the Chairman after confirmation at the next meeting.

<sup>4</sup> Subs. by Notification No. S.R.O. 1340 dated the 1st June, 1956.

<sup>4a</sup> The words "or of the Committee as the case may be", "or of the Committee" omitted, *ibid*.

<sup>4aa</sup> Sub-paragraph (2) omitted and sub-paragraph (3) renumbered (2) and the words "or members of the Committee, as the case may be", "or members" omitted, *ibid*.

**20. Acts of the Board not invalid by reason of defect in Constitution, etc.**—No Act of the Board shall be deemed to be invalid by reason of any defect in the constitution of the Board or on the ground that any trustee thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or by reason of such act having been done during the period of any vacancy in the Board.

**21. Fees and allowances.**—(1) The travelling allowance of an official trustee shall be governed by the rules applicable to him for journeys performed on official duty and shall be paid by the authority paying his salary.

(2) Every non-official trustee shall be paid an allowance of Rs. 12-8-0 for each day on which he attends a meeting of the Board and travelling allowance at  $1\frac{1}{4}$  railway fares of the highest class from and to his usual place of business or from and to the place the journey is actually performed whichever is less, plus road mileage at annas eight per mile for the journey not covered by railway.

**NOTE.**—(1) No daily or travelling allowance in respect of any day or journey, as the case may be shall be claimed from the Fund by a trustee if he has drawn or will draw allowance for the same from his employer or as a member of the Legislature or of any Committee or Conference of Government and no travelling allowance shall be claimed if he uses a means of locomotion provided at the expense of Government or his employer.

**NOTE.**—(2) Where the journey is performed by road between places connected by railway road mileage shall be paid only if the trustee concerned certifies that the journey was undertaken by road to avoid loss of time which the journey by railway would have entailed and the distance travelled does not exceed 75 miles in a single journey.

**22. Powers of the Central Government until the Board is constituted.**—(1) Until the Board of Trustees is constituted the Central Government shall administer the affairs of the Fund and may exercise any of the powers and perform any of the functions of the Board.

(2) All property acquired before the Board is constituted shall vest in the Board and all income derived and expenditure incurred in this behalf shall be brought into the books of the Fund.

**23. Coal Mines Provident Fund Commissioner.**—(1) The Central Government may appoint a Coal Mines Provident Fund Commissioner who shall be the Chief Executive Officer of the Fund and shall be subject to the general control and superintendence of the Board.

(2) The Commissioner shall be a whole time officer of the Fund and shall not undertake any work not connected with his office without the sanction of the Central Government.

(3) The Commissioner shall hold office for such period, not exceeding 5 years, as may be specified in the order appointing him. An out-going Commissioner shall be eligible for re-employment if he is otherwise qualified.

(4) The Commissioner shall receive such salary and allowances and be subject to such other conditions of service as may be specified by the Central Government from time to time.

(5) A person shall be disqualified from being the Commissioner if he is subject to any of the disqualifications specified in paragraph 10.

(6) The Central Government may at any time remove the Commissioner from office and shall do so, if such removal is recommended by a resolution of the Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Board.

**24. Staff.**—(1) The Board may employ such staff as may be necessary for the efficient administration of this Scheme:

Provided that the sanction of the Central Government shall be obtained for the creation of any post with maximum salary of Rs. 500 and above, and the duration of which is likely to be more than six months.

(2) The Board shall, with the approval of the Central Government make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff:

Provided that the scale of pay and allowances of the members of the staff shall generally be in accordance with the scales sanctioned by the Central Government for similar posts.

(3) Every appointment to posts carrying a starting monthly salary of Rs. 275 and above shall be made by the Central Government.

(4) Persons appointed by the Board and paid from the Fund shall not be deemed to be Government servants notwithstanding that the Central Government may direct that

any service rules applicable to Government servants may apply with or without modifications to such persons.

**25. Class of employees required to join the Fund.**—(1) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to join the Fund and become a member immediately after the end of the quarter following any quarter after the thirtieth of September, 1948, in which he qualified for a bonus under sub-paragraph (b) of paragraph 4 or sub-paragraph (c) of paragraph 5 of the Coal Mines Bonus Scheme.

(2) Every employee in a coal mine to which this Scheme applies, other than an excluded employee, shall be required to become a member of the Fund (hereinafter called the "initial member") from the beginning of the first period or quarter before the first of October, 1948, in respect of which he qualifies for a bonus under paragraph 4 or paragraph 5 of the Coal Mines Bonus Scheme:

Provided that an initial member, who has received before the first of October, 1948, from his employer the full amount of his as well as the employer's contribution on his leaving employment in the coal mining industry, shall cease to be an initial member.

*Explanation.*—An employee whose basic wages exceed three hundred rupees per month from the date on which the Scheme is deemed to have come into force or from the date on which he begins work in a coal mine to which the Scheme applies cannot qualify for membership of the Fund so long as his basic wages continue to exceed three hundred rupees per month since he cannot qualify for a bonus under the Coal Mines Bonus Scheme. An employee whose basic wages exceed three hundred rupees per month subsequent to his qualifying for membership will be required to continue his membership and contributions <sup>4b</sup> \* \* \* shown in Table I in paragraph 27 will continue to be payable.

**26. Election for continuance of membership of certain other Provident Funds.**—(1) Notwithstanding anything to the contrary contained in paragraph 25, a subscriber to a Provident Fund recognised under the Indian Income-tax Act, 1922 (XI of 1922), or to which the Provident Funds Act 1925 (XIX of 1925), applies, may elect to continue as a subscriber thereto and if he does so, he shall not be required to or be entitled to become a member of the Fund.

(2) The election referred to in sub-paragraph (1) shall be made in Form C annexed hereto as soon as possible after he qualifies for membership of the Fund and shall be sent by the employer by registered post to the Commissioner so as to reach him within six months of the date on which the Scheme is notified or within six weeks of the end of the period or quarter in which he qualifies for membership of the Fund under paragraph 25, whichever is later.

<sup>5</sup>[(3) Where a subscriber to a recognised Provident Fund having elected to continue to subscribe to that Fund under sub-paragraphs (1) and (2) makes an application to the Commissioner <sup>6</sup>[within such period as the Commissioner may specify in this behalf] for becoming a member of the Provident Fund established under this Scheme, the Commissioner may, if he is so satisfied, permit the subscriber to make a fresh election, and where the subscriber is so permitted, the employer shall require the subscriber to make a fresh election in Form C and if he elects to join the Fund, he shall be deemed to have become a member of the Fund and shall be entitled to contribute to it from the date of such re-election. The election certificate together with a return, in duplicate, in Form H and the declaration of the subscriber in Form A shall be forwarded to the Commissioner by the employer within a fortnight of the date of the said certificate. The said return in Form H shall be marked 'special' and shall be deemed to relate to the quarter in which the certificate in Form C is signed, irrespective of whether the subscriber qualifies or does not qualify for bonus in that quarter.]

**27. Rates of contribution.**—(1) Contributions shall be payable under this Scheme in respect of every member, whether an initial member or not, employed directly or indirectly in any coal mine to which this Scheme applies in respect of each month or week, as the case may be, for the whole or part of which he is so employed after the 31st of December, 1948 and shall comprise contribution by the member and contribution by the employer at the rates specified in the following tables:

Provided that an employer may cease to pay contribution in respect of a member if the member, not being a member whose wages exceed three hundred rupees per month,

<sup>4b</sup> The words "restricted to the maximum" omitted by Notification No. PF 2 (2)/51 dated the 23rd April, 1951.

<sup>5</sup> Sub-paragraph (3) inserted by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

<sup>6</sup> Substituted by Notification No. S.R.O. 999 dated the 20th April, 1956.

fails to earn a bonus in any coal mine for four successive quarters. If he does not pay the contribution as aforesaid, the election shall continue to be effective only upto the end of the quarter immediately following the quarter in which he again qualifies for a bonus under paragraph 4 or paragraph 5 of the Coal Mines Bonus Scheme. In the meantime, such a member shall continue as a non-contributory member so long as he does not withdraw from membership under paragraph 63.

TABLE I

<sup>6a</sup>[Monthly rated employees whose rates of basic wages exceed thirty rupees per month]

<sup>7</sup> [Total of monthly basic wages, dearness allowance and cash equivalents of concessional rations at the rate of fifteen rupees per month]	Member's contribution	Employer's contribution	Total monthly contribution
	Rs. A. P.	Rs. A. P.	Rs. A. P.
Upto Rs. 10 . . . . .	0 10 0	0 10 0	1 4 0
Over Rs. 10 and upto Rs. 16 . . . . .	1 0 0	1 0 0	2 0 0
Over Rs. 16 and upto Rs. 24 . . . . .	1 8 0	1 8 0	3 0 0
Over Rs. 24 and upto Rs. 36 . . . . .	2 0 0	2 0 0	4 0 0
Over Rs. 36 and upto Rs. 54 . . . . .	3 0 0	3 0 0	6 0 0
Over Rs. 54 and upto Rs. 72 . . . . .	4 0 0	4 0 0	8 0 0
Over Rs. 72 and upto Rs. 88 . . . . .	5 0 0	5 0 0	10 0 0
Over Rs. 88 and upto Rs. 104 . . . . .	6 0 0	6 0 0	12 0 0
Over Rs. 104 and upto Rs. 120 . . . . .	7 0 0	7 0 0	14 0 0
Over Rs. 120 and upto Rs. 136 . . . . .	8 0 0	8 0 0	16 0 0
Over Rs. 136 and upto Rs. 150 . . . . .	9 0 0	9 0 0	18 0 0
Over Rs. 150 and upto Rs. 175 . . . . .	10 0 0	10 0 0	20 0 0
Over Rs. 175 and upto Rs. 200 . . . . .	12 0 0	12 0 0	24 0 0
Over Rs. 200 <sup>8</sup> [and upto Rs. 240]	15 0 0	15 0 0	30 0 0
<sup>8</sup> [Over Rs. 240] . . . . .	<sup>8a</sup> 1/16th of the total of monthly wages, dearness allowance and cash equivalents of concessional rations at the rate of fifteen rupees per month	1/16th of the total of monthly basic wages, dearness allowance and cash equivalents of concessional rations at the rate of fifteen rupees per month	2/16th of the total basic wages, dearness allowance and cash equivalents of concessional rations at the rate of fifteen rupees per month rounded off to the nearest rupee.]

<sup>6a</sup> The heading substituted for the words "monthly rated employees" by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

<sup>7</sup> Substituted for the words "basic wages for the month," *ibid.*

<sup>8</sup> These words and figures inserted by Notification No. PF 2(2)/51 dated the 23rd April, 1951.

<sup>8a</sup> Subs. by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

TABLE II

<sup>9</sup>[Employees other than monthly rated]

<sup>10</sup> [Basic wages for any week ending on or before the 17th July, 1955]	Member's contribution	Employer's contribution	Total weekly contributions
	Annas	Annas	Annas
Upto Re. 1 . . . . .	Nil	Nil	Nil
Over Re. 1 and upto Rs. 2 . . . .	2	2	4
Over Rs. 2 and upto Rs. 3 . . . .	3	3	6
Over Rs. 3 and upto Rs. 5 . . . .	4	4	8
Over Rs. 5 and upto Rs. 7 . . . .	6	6	12
Over Rs. 7 and upto Rs. 9 . . . .	8	8	16
Over Rs. 9 and upto Rs. 11 . . . .	10	10	20
Over Rs. 11 . . . . .	12	12	24

<sup>11</sup>[TABLE III

(Rates of contribution for any wage period ending on or after the 18th July, 1955)

Category of Employees	Rate of Provident Fund Contribution	
	Member's contribution per rupee of basic wage for the week	Employer's contribution per rupee of basic wage for the week
	Annas	Annas
(a) Weekly paid employees—		
(i) In the States of Bihar and West Bengal	3	3
(ii) In all other States	2½	2½
	Member's contribution per rupee of basic wage for the month	Employer's contribution per rupee of basic wage for the month
	Annas	Annas
(b) Monthly paid employees whose basic rate of pay does not exceed Rs. 30 per mensem—		
(i) In the States of Bihar and West Bengal	3	3
(ii) In all other States	2½	2½

<sup>9</sup> Subs. by Notification No. S.R.O. 1472 dated 2nd July, 1955 for the words "other employees."<sup>10</sup> Subs. for the words "basic wages for the week", *ibid.*<sup>11</sup> Table III inserted, *ibid.*



(2) If any dispute arises as to whether a particular item of emoluments is a part of basic wages or not, the dispute shall be referred to the Chief Labour Commissioner (Central), whose decision shall be final.

<sup>12</sup>[(3) For the purpose of ascertaining the amounts of a member's contribution or an employer's contribution payable in terms of Table III, any fraction of a rupee in the member's basic wages for the wage period for which contribution is so payable shall, in the first instance, be rounded off to a rupee, even though the fraction is less than eight annas. Fractions of an anna both in the member's and the employer's contributions shall be ignored.]

<sup>12</sup>[(4) In calculating the total emolument for the purpose of ascertaining the amount of a member's contribution or an employer's contribution in terms of Table I, the cash equivalent of concessional rations for the entire month shall be reduced by eight annas for each day of absence without pay irrespective of whether rations at concessional rates are drawn by the member or his dependants during such absence or not. Where a member leaves service in a coal mine before the end of a month or is appointed in a coal mine after the first day of a month, a reduction at the rate of eight annas per day shall be made from the cash equivalent of concessional rations at the rate of fifteen rupees per month in respect of the days of that month following or preceding such termination or joining service.]

**28. Payment of contributions.**—The employer shall, <sup>13</sup>[whether he has collected the member's share of contribution or not], pay both the contribution payable by himself (in this Scheme referred to as the employer's contribution) and also, on behalf of the member employed by him, the contribution payable by the member (in this Scheme referred to as the member's contribution).

**29. Recovery of member's share of contribution.**—(1) The amount of any member's contribution paid <sup>14</sup>[or, payable] by the employer shall, notwithstanding the provisions of this Scheme or any law for the time being in force or any contract to the contrary, <sup>15</sup>[realisable] by means of deduction from the wages of the member and not otherwise:

Provided that no such deduction may be made from any wages other than such as are paid in respect of the period or part of the period in respect of which the contribution is payable.

(2) Any sum deducted by an employer from wages under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

**30. Employer's share not to be recovered from employee.**—Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wages of a member or otherwise to recover it from him.

**31. Payment of contributions in respect of initial members.**—(1) In respect of all initial members of the Fund employed by an employer in West Bengal and Bihar during the period from the twelfth of May, 1947 to the thirtieth of September, 1948 and by an employer in Central Provinces and Berar and Orissa during the period from the tenth of January, 1948 to the thirtieth of September, 1948 the employer shall be required to pay for credit as member's contribution to the Fund the amounts deducted by him under sub-paragraph (3) of paragraph 7 of the Coal Mines Bonus Scheme from the bonus payable, together with an equal amount on account of the employer's contribution and also an administrative charge equal to 5 per cent. of the total amount of the employer's and member's contributions.

(2) The payment referred to in sub-paragraph (1) shall be made by deposit in such Government treasury or branch of the Imperial Bank of India and under such head of account and at such time as the Central Government may direct. The original treasury or bank challan shall be sent to the Commissioner with a statement in Form B annexed hereto within one week of the date of the deposit.

**NOTE 1.**—The employer's as well as the member's contribution shall be payable in respect of all initial members irrespective of whether or not the initial member is in the service of the employer at the time when the payment falls due.

<sup>12</sup> Sub-paragraphs (3) and (4) inserted by Notification No. S.R.O. 1472 dated 2nd July, 1955.

<sup>13</sup> Substituted for the words "in the first instance" by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>14</sup> Inserted, *ibid.*

<sup>15</sup> Substituted for the word "recoverable", *ibid.*

**NOTE 2.**—If the total amount of the member's as well as his employer's contribution has been refunded by the employer to any member at the time of his leaving the coal mining industry before the 1st October, 1948 no contribution shall be payable to the Fund by the employer in respect of such member. In all other cases the employer's as well as the member's contribution shall be payable to the Fund.

**NOTE 3.**—For the sake of removal of doubt, it is hereby stated that no contribution under paragraph 27 or under this paragraph shall be payable in respect of the period from the first of October, 1948 to the thirty-first of December, 1948.

**32. Lump sum contribution.**—(1) Every employer shall be required to pay for credit to the "Reserve Account" of the Fund a consolidated contribution in respect of the period from the twelfth of May, 1947 in the case of coal mines in West Bengal and Bihar and from the tenth of October, 1947 in the case of coal mines in the Central Provinces and Berar and Orissa up to the thirty-first of December, 1948 and at such rate per ton of coal raised in the coal mine during the period concerned as the Central Government may specify in this behalf:

Provided that any sums deposited under paragraph 31 as the employers' contribution and the administrative charge shall be allowed as a deduction from the amount which would otherwise be required to be paid under this paragraph.

(2) The payment referred to in sub-paragraph (1) shall be made by deposit in such Government treasury or branch of the Imperial Bank of India and under such head of account and at such time, as the Central Government may direct. The original treasury or bank challan shall be sent to the Commissioner, with a statement in such form as he may specify, within one week of the date of the deposit.

**33. <sup>16</sup>[Mode of payment of contribution in respect of any period of currency commencing prior to the 1st of April, 1953—Affixing of stamps].**—(1) Every contribution payable under this Scheme <sup>17</sup>[in respect of any period of currency commencing prior to the 1st of April, 1953] shall, except as otherwise provided herein, be paid, by affixing a stamp in the space provided therefor in the contribution card maintained for each member in Form D or E annexed hereto.

(2) An employer who is liable to pay contributions in respect of <sup>17</sup>[such period of currency for] any member employed by him, shall pay the contributions in the following manner:—

The employer shall before paying the member the wages in respect of any part of the period for which contributions are payable affix to the card of the member a stamp or stamps in payment of the contributions due in respect of that period:

Provided that it shall be the duty of the employer in any case—

(a) before the termination of the employment, except where the employment is terminated by the member without any notice or intimation to the employer, in which case the employer shall pay contributions within fourteen days of the termination of the employment,

(b) within six days after the expiration of the period of currency of the card,

(c) if the wages have become due but have not been paid, within forty-eight hours after receiving a request in that behalf from the member,

to affix to the card of the member a stamp or stamps in respect of the period ending at the date of such termination, expiration or request.

(3) <sup>18</sup>[In respect of any currency period commencing before the 1st of April, 1953 or part thereof] during which the contribution card of the member has not been received by an employer from the last employer or the Commissioner, the employer shall prepare an emergency card in Form F annexed hereto and shall pay any contribution payable in respect of the member by affixing a stamp or stamps to such a card.

<sup>18a</sup>[Provided that the Commissioner may direct that any payment under this paragraph shall be made in one or the other modes specified in clauses (i) to (iv) of sub-paragraph (3) of paragraph 33A of this Scheme.]

**<sup>19</sup>[33A. Mode of payment of contribution for any period of currency commencing on or after the 1st of April, 1953—payment in cash.]**—(1) Every contribution payable under this Scheme during a period of currency commencing at any time on or after the 1st April,

<sup>16</sup> Subs. by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>17</sup> Inserted, *ibid.*

<sup>18</sup> Substituted for the words "in respect of the period", *ibid.*

<sup>18a</sup> Ins. by Notification No. S.R.O. 1340 dated the 1st June, 1956.

<sup>19</sup> Ins. by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

1953, shall be paid monthly in respect of each colliery separately on or before the date specified in sub-paragraph (2). The contributions shall be calculated <sup>20</sup>[as provided in the Scheme] payable for all wage periods ending in a month.

(2) The employer shall pay to the Fund both the employer's contribution as well as the member's contribution together with an amount <sup>21</sup>[calculated at the rate mentioned in paragraph 33B of the Scheme] to defray the cost of administration of the Fund on or before the 15th day of every month following the month to which the contributions relate.

(3) Every payment under sub-paragraph (2) shall be made in one of the other of the methods specified below, that is to say:—

(i) by means of a crossed account payee cheque on the Imperial Bank of India, Dhanbad, in favour of the Coal Mines Provident Fund Account No. 1;

(ii) by means of a crossed account payee bank draft on the Imperial Bank of India, Dhanbad, in favour of the Coal Mines Provident Fund Account No. 1;

(iii) by a deposit of the amount in cash in the Imperial Bank of India, Dhanbad for being credited to the Coal Mines Provident Fund Account No. 1;

(iv) by a deposit of the amount in cash in any Government treasury specified in Schedule B annexed hereto under the following head of account:—

“P—Deposits and Advances—Part II—Deposits not bearing interest—(c) Other deposits accounts—Other Deposits—Deposits of the Coal Mines Provident Fund Contribution from the 1st January, 1949.”

(4) A monthly abstract of all payments by an employer under sub-paragraph (3) shall be made in Form P annexed hereto separately in respect of each colliery and it shall be forwarded in duplicate to the Commissioner by registered post or by a messenger on or before the 15th day of each month, following the month to which such payments relate together with the appropriate cheques, drafts, receipted pay-in-slips or original receipted challans in token of the employer having made such payments.]

<sup>22</sup>[33B. **Rate of administrative charge.**—(1) The amount for defraying the cost of administration of the Fund payable under sub-paragraph (2) of paragraph 33A of this Scheme shall be calculated at the following rates:—

#### *Contribution*

#### *Rule of Administrative charges*

(i) Provident Fund contribution payable for any period upto the 17th July, 1955.

Five per centum of the total amount of member's and employer's contributions.

(ii) Provident Fund contribution payable for any period after the 17th July, 1955.

Three per centum of the total amount of member's and employer's contributions.

(2) The rate mentioned in clause (ii) of sub-paragraph (1) may, from time to time, be reviewed by the Central Government in consultation with the Board.]

**34. Stamps to be affixed by employer only and stamps which have previously been affixed or are cancelled or defaced not to be affixed.**—No person other than an employer shall affix to the card any stamp relating to this Scheme and no person shall affix to a card any stamp which has been cancelled or defaced or which has been previously affixed to a card to which stamps are required or authorised to be affixed for the purposes of this Scheme.

**35. Cancellation of stamps.**—Save as otherwise expressly provided in this Scheme, an employer shall immediately after affixing any contribution stamp to a card cancel the stamp by stamping with a metallic die with black indelible ink across the face of the stamp the date upon which it is affixed and the employer's registered number.

**36. Writing on contribution cards and stamps.**—(1) An employer may, if he thinks fit, inscribe upon the card of any member employed by him, but only in such manner as may easily be erased or removed, the number of that member upon the pay list or in the books of the employer.

(2) Save as otherwise expressly provided in this Scheme or as specially authorised by the Central Government, no writing or other mark shall be made at any time upon the card or stamps until after the surrender of the card to the Commissioner.

<sup>20</sup> Substituted by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

<sup>21</sup> Substituted by Notification No. S.R.O. 1852 dated the 20th August, 1955.

<sup>22</sup> Inserted, *ibid.*

<sup>23</sup>[(3) Subject to the provisions of this paragraph, no overwriting or erasure mark shall be allowed to be made in any entry in the contribution card of a member relating to the basic wages <sup>23a</sup>[or the total monthly basic wages, dearness allowance and cash equivalent of concessional rations at the rate of fifteen rupees per month] of such member as the contributions paid in respect of him:]

Provided that where any alteration or amendment of such entry becomes necessary in the opinion of the manager, accountant or the head clerk of a coal mine, such alteration or amendment shall be made in the contribution card by scoring through the incorrect entry and substituting therefor a correct entry, which will be duly initialled by the manager, accountant or the head clerk, as the case may be.

Provided further that where any adjustment on account of any excess or short payment becomes necessary, a plus or minus entry, as the case may be, shall be recorded in the appropriate column of the contribution card.]

**37. Declarations by employees and preparation of contribution cards.**—Every person who is required to be a member or an initial member of the Fund shall be asked forthwith by his employer to furnish and shall on such demand furnish to him, for communication to the Commissioner, particulars concerning himself and his nominees in Form A annexed hereto. The particulars shall be entered in his own handwriting or if he is unable to write, shall be ascertained from him by the employer and entered in Form A. The employer shall obtain the signature and/or the thumb impression of the person and sign the certificate on the form at the place provided for the purpose and shall immediately thereafter prepare—

<sup>24</sup>[(a) in respect of a period of currency commencing before the 1st April, 1953 in Form D or, as the case may be, in Form E, and

(b) in respect of any period of currency commencing on or after the 1st April, 1953 in Form D (Revised) annexed hereto, or, as the case may be, in Form E—(Revised) annexed hereto.]

<sup>25</sup>[**37A. Method of opening of contribution cards for periods of currency commencing on or after the 1st of April, 1953.**—Every employer shall in respect of every member in a coal mine to which this Scheme applies, other than an excluded employee, shall on or before the commencement of any period of currency beginning on or after the 1st of April, 1953, open a new contribution card in Form D (Revised) or E (Revised) annexed hereto, as the case may be, and record in the appropriate columns of the contribution card entries showing the amount of wages earned by such employee in every month or week, and the total amount of the member's contribution and the employer's contribution payable in respect of each month or week for such employee.]

<sup>25a</sup>[Provided that in the case of monthly rated employees whose basic rate of pay exceeds Rs. 30 per month, the total of monthly basic wages, dearness allowance and cash equivalent of concessional rations at the rate of fifteen rupees per month calculated according to sub-paragraph (4) of paragraph 27 shall be recorded in the contribution card in Form E (Revised) in the column bearing the heading "Wages earned" and that the words 'Basic rate above rupees thirty' shall be endorsed at the top of such contribution card.]

**38. Submission of return of qualified employees.**—Every employer shall send by registered post or through a messenger to the Commissioner within six weeks of the commencement of each quarter a return, in duplicate, in Form H annexed hereto of the employees qualifying to become members of the Fund during the preceding quarter and shall send with this return the declarations in Form A furnished by the persons qualifying.

**39. Allotment of account numbers.**—On receipt of the return required under paragraph 38 the Commissioner shall promptly allot an Account Number to each person who has qualified to become a member and shall communicate the Account Number to the employer.

**40. Currency of contribution cards.**—The contribution cards issued under this Scheme shall have the period of currency of one year:

Provided that this period of one year may commence and terminate at such different times for coal mines in different areas as may be decided by the Board from time to time:

Provided further that the cards issued in respect of the first contribution period may have a period of currency longer or shorter than the period of one year.

<sup>23</sup> Subs. by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>23a</sup> Subs. by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

<sup>24</sup> Ins. by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>25</sup> Inserted, *ibid*.

<sup>25a</sup> The Proviso inserted by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

**41. Renewal of contribution cards.**—Every employer shall, on or before the expiration of the period of currency of the contribution card, prepare in respect of each member employed by him, a card in Form D or E as may be appropriate for the next period of currency.

<sup>26</sup>[Provided that such contribution card shall be prepared in Form D (Revised) or E (Revised), annexed hereto, as the case may be, in respect of each member for any period of currency commencing on or after the 1st of April, 1953.]

**42. Submission of contribution cards to the Commissioner.**—Every employer shall, within six weeks from the date of expiration of the period of currency of the contribution cards in respect of members employed by him, send the contribution cards together with the emergency cards, if any, issued in respect of the members to the Commissioner by registered post or through a messenger together with a statement in duplicate in Form I annexed hereto <sup>26a</sup>[in respect of contribution cards relating to any period of currency commencing before the 1st April, 1953, and in Form I (Revised) annexed hereto in duplicate, in case of contribution cards relating to any period of currency commencing on or after such date.]

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**28[44]. Contribution cards of absentee members—submission to the Commissioner.**—(1) Where an employee leaves service in a coal mine <sup>28</sup>[at any time during period of currency commencing before the 1st of April, 1953] without any notice to the employer, the employer shall keep with himself his contribution card until the end of the calendar month following that in which the employee left such service and if during such period the employee is not re-employed in the coal mine the employer after making the necessary entries therein shall send the card by registered post or through a messenger to the Commissioner accompanied by a statement in duplicate in Form J annexed hereto:

Provided that if during any such period the employee is employed in another coal mine and the employer receives a request from the employer in the other coal mine for the card of the member, the first mentioned employer shall, within 10 days of the receipt of the request, send to the other employer by registered post the said card duly completed together with a copy of a statement in Form J in duplicate, a copy of such statement being sent simultaneously also to the Commissioner.]

<sup>30</sup>[(2) Where an employee leaves service in a coal mine or is transferred to any other coal mine or when his service is terminated by the employer at any time during any period of currency commencing on or after the 1st April 1953, the contribution card of such employee shall be retained by the employer for submission to the Commissioner on the expiry of the period of the currency to which the contribution card relates or at any time before the expiry of such period, if so directed by the Commissioner.]

**45. Declaration form—procedure to be followed by the employer.**—When a person presents himself for work at a coal mine the employer shall ask him to state whether or not he is a member of the Fund and if he is, ask for his <sup>30a</sup> \* \* Account Number and the name and the particulars of the last employer and get his cards from the Commissioner or from the last employer. When the new employer receives the contribution cards, emergency cards, if any, <sup>31</sup>\* \* \* in respect of the members of the Fund who have joined him, from the last employer or the Commissioner, he shall sign and return one copy of the statement in Form J or K annexed hereto in token of receipt to the last employer or the Commissioner, as the case may be.

<sup>32</sup>[Provided that in respect of any person who presents himself for work at a coal mine at any time during a period of currency commencing on or after the 1st of April, 1953, the employer shall require the person to furnish a written declaration in Form Q annexed hereto or if the person is unable to read and write in English, the employer shall obtain the necessary information from the person and complete the Form and obtain

<sup>26</sup> The Proviso inserted by Notification No. S.R.O. 3306 dated 22nd October, 1954.

<sup>26a</sup> Inserted, *ibid*.

<sup>27</sup> Paragraph 43 deleted by Notification No. PF(2)/(16)/52 dated the 8th July, 1952.

<sup>28</sup> Paragraph 44 reconstituted by Notification No. PF2(16)/52 dated the 8th July, 1952 and renumbered as sub-paragraph (1) by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>29</sup> Ins. by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>30</sup> Inserted, *ibid*.

<sup>30a</sup> The words "Identity Card" omitted by Notification No. PF2(16)/52 dated 8th July, 1952.

<sup>31</sup> The words "and Identity Cards if any" omitted, *ibid*.

<sup>32</sup> The Proviso added by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

thereon the person's signature or thumb impression. Such person on being so required to do shall complete the form or furnish the information, as the case may be. The declaration in Form Q from any such person containing a negative statement shall be affixed to the declaration of such person in Form A and forwarded to the Commissioner along with the returns in Form H as and when such person qualifies for membership of the Fund. Where the declaration in Form Q is affirmative, it shall be preserved by the employer until such time as the contents thereof are verified from the previous employer;

Provided further that where any such person makes a declaration in Form Q to the effect that he was a member of the Fund, the employer shall open for him a new contribution card in Form D (Revised) or E (Revised), as the case may be, and enter therein the basic wages <sup>33</sup>[or the total of monthly basic wages, dearness allowance and the cash equivalent of concessional rations at the rate of fifteen rupees per month calculated according to sub-paragraph (4) of paragraph 27, as the case may be] and the total of the member's and the employer's contributions to be paid by the new employer during the remaining period of currency during which such person has worked under the new employer. The employer shall at the same time take steps to verify the truth or otherwise of the statement from his former employer, who shall be bound to furnish the required information:

Provided also that where such person makes a false declaration in Form Q suppressing the fact of his previous membership of the Fund, the arrears on account of the member's share of the contribution may, notwithstanding the proviso to sub-paragraph (1) of paragraph 29, be realised from his wages which he may earn subsequently in such number of instalments as may be considered to be suitable by the Commissioner who shall be furnished with a complete report of the case, supported by the declaration in Form Q within a period of fifteen days from the date on which the falsity of the declaration of such person comes to the notice of the new employer.]

**46. Supply of Cards and Forms to employers.**—The Commissioner shall supply to employers free of charge on demand Declaration Forms, <sup>34</sup> \* \* Contribution Cards, Emergency Cards, and other forms referred to in this Scheme:

Provided that if any employer desires to obtain any card or form in excess of what the Commissioner considers to be the requirement of the employer, the Commissioner may, if he thinks fit, supply such excess cards or forms and make such charge therefor as he considers necessary.

**47. Custody of<sup>35</sup> \* \* contribution cards.**—The employer shall, retain the contribution cards in respect of each member in his custody and shall take every possible precaution to guard them against loss or damage.

**48. Inspection of cards by members.**—Any member who makes a request in this behalf to the employer shall be permitted to inspect his cards within a period of 72 hours of making such request provided that no member may make such a request more than once in any calendar month.

**49. Production of cards for inspection by the Commissioner or Inspector.**—(1) Every employer shall, whenever the Commissioner or any other officer authorised by him in this behalf or an Inspector so requests; either in person or by notice, produce to the Commissioner, Officer or Inspector the cards of any member employed by him and any card then in his possession, and if so required by the Commissioner, Officer or Inspector shall deliver such card to the Commissioner, Officer or Inspector, who may, if he thinks fit, retain the card.

(2) The Commissioner, Officer or Inspector shall grant a receipt for every card retained by him.

**50. Procedure for the purchase of contribution stamps by employers—Rate of administrative charge.**—The contribution stamps to be affixed to the contribution cards of the members under this Scheme shall be obtained by the employer from one of the Government treasuries specified in Schedule A on indent in Form N annexed hereto and the nominal value of the stamps indented for, together with an administrative charge of 5 per cent. of the nominal value of the stamps shall be paid into the treasury under the head of account to be specified by the Central Government in this behalf;

Provided that the rate of administrative charge shall be reviewed by the Central Government, in consultation with the Board, before the expiry of three years from the date of publication of this Scheme.

<sup>33</sup> Ins. by Notification No. S.R.O. 1472 dated the 2nd July, 1955.

<sup>34</sup> The words "Identity Cards" omitted by Notification No. PF2(16)/52 dated the 8th July, 1952.

<sup>35</sup> The words "Identity and" omitted, *ibid.*

**50A. Remittance of Coal Mines Provident Fund Money.**—(1) All amounts into Government treasuries under paragraphs 31(2), 32(2) and 33A(3)(iv) and 50 shall be remitted to the Current Account No. 1 of the Coal Mines Provident Fund with the Imperial Bank of India, Dhanbad by the third day of the week following the week of deposit under advice to the Government of India in the Ministry of Labour and the Coal Mines Provident Fund Commissioner. The remittance shall be made by Treasury officers by means of Reserve Bank of India Drafts as per marked "Intra-Provincial" favouring Imperial Bank of India, for credit to the Current Account No. 1 of the Fund.

The account shall be operated on by such officer as may be specified by the Board of Trustees of the Coal Mines Provident Fund from time to time.

(2) The Coal Mines Provident Fund Commissioner shall submit demand statement to the Accountants General/Comptrollers by the 15th of the month in respect of the deposits made into the Government treasuries during the month preceding the last month. Any difference between the amount remitted by the Treasury Officer and that actually due to the Fund shall be adjusted by the Accountant General/Comptroller in a subsequent month.

(3) The amount of administrative charges collected by Post Offices shall be remitted by the Postmaster concerned in the first week of the month following the month of sale of stamps in cash or by means of Reserve Bank of India, Dhanbad, for credit to the Current Account No. 1 of the Fund. The Coal Mines Provident Fund Commissioner shall forward to the Deputy Accountant General, Posts and Telegraphs concerned a monthly statement by the 15th of each month showing the amounts realised by Post Offices within their circle of audit, on account of administrative charges on the sale of Coal Mines Provident Fund contribution stamps during the month preceding the last month, any difference between the amount already remitted by the Postmaster into the Current Account No. 1 of the Fund with the Imperial Bank of India, Dhanbad, and that due to the Fund being adjusted by the Postmaster in due course on advice from the Deputy Accountant General, Posts and Telegraphs concerned.]

**51. Stamps Suspense account and Administrative account.**—(1) Out of the total amount realized under paragraph 50 an amount equal to the nominal value of the stamps sold shall be credited to an account to be named as the "Stamps Suspense Account" and the amount realized as the administrative charge shall be credited to an account to be called the "Administration Account".

(2) Of the sum realised under paragraph 33A, an amount equal to the contributions to the Fund shall be credited to an account to be named "Suspense General Account" and the amount received for defraying the cost of administration to an account to be called "Administration Account".]

**52. Provident fund account.**—(1) When the contribution cards of members <sup>35a</sup>[for any period of currency commencing before the 1st of April, 1953] are received after the expiration of their period of currency from the employers the aggregate amount for which stamps have been affixed on the contribution cards shall be credited to an account to be called the "Provident Fund Account" by contra debit to the "Stamps Suspense Account".

(2) On receipt of the contribution cards relating to any period of currency commencing on or after the 1st of April, 1953 and after verification of the deposits received from the coal mines concerned, the total amount of contributions entered in the contribution cards shall be credited to an account to be called "The Provident Fund Account" by contra debit to "the Suspense General Account".]

**53. Interest suspense account.**—All interests, rents, etc., realised and net profits or losses, if any, from the sale of investments, not including therein the transactions of the Administration Account, shall be credited, or as the case may be debited, to an account called the "Interest Suspense Account". Brokerage and commission on the purchase and sale of securities and other investments shall be included in the purchase or sale price, as the case may be and not separately charged to the "Interest Suspense Account".

**54. Investment of monies belonging to the Coal Mines Provident Fund.**—(1) All monies belonging to the Coal Mines Provident Fund shall be either deposited in the Imperial Bank of India or in such other scheduled banks as may be approved by the Central Govern-

<sup>35a</sup> Ins. by Notification No. S.R.O. 1134 dated the 23rd June, 1952.

<sup>36</sup> Paragraph 51 re-numbered as sub-paragraph (1) and sub-paragraph (2) inserted by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>37</sup> Paragraph 52 re-numbered as sub-paragraph (1), *ibid.*

<sup>38</sup> Sub-paragraph (2) inserted, *ibid.*

ment from time to time, or invested in securities mentioned or referred to in clauses (a) to (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882), subject to the condition that the securities in which investments are made are payable both in respect of capital and of interest in the Dominion of India.

(2) The Board shall prepare a classified summary of the assets of the Fund as on the 31st March in each year or on such other date as the Central Government may specify in Form O annexed hereto, and shall append it to the annual report required to be submitted to the Central Government under paragraph 68.

**55. Disposal of the Coal Mines Provident Fund.**—Subject to the provisions of the Act and of this Scheme, the Coal Mines Provident Fund, not including therein the Administration Account, shall not, except with the previous sanction of the Central Government, be expended for any purpose other than the payment of the sums standing to the credit of individual members of the Fund or to their nominees or heirs or legal representatives in accordance with the provisions of this Scheme.

**56. Expenses of administration.**—(1) Subject to the provisions of the Act and of the Scheme all expenses of administration of the Coal Mines Provident Fund, including the fees and allowances of the trustees and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contribution to Provident Fund or other benefit funds for the officers and servants of the Fund, the cost of audit of the accounts, legal expenses and the cost of all stationery and forms required for the purpose of giving effect to this Scheme, shall be met from the Administration Account.

(2) All expenses incurred by the Central Government for and in connection with the establishment of the Fund, whether before or after the date of its establishment, shall be treated as a loan advanced by the Central Government to the Fund and such loan shall be repaid to the Central Government from the Administration Account.

**57. Budget.**—(1) The <sup>38a</sup>[Commissioner] shall place before the Board at a meeting to be held in January each year a budget showing separately the probable receipts from the sale of stamps and the levy of the administrative charge and the expenditure which he proposes to incur during the financial year commencing on the first of April next. The budget as approved by the Board shall be submitted for sanction to the Central Government before the 15th of February each year.

(2) The Central Government may sanction the budget as submitted or with such alterations therein as it considers desirable.

**58. Form of accounts.**—The Board shall maintain the accounts of the Fund, including the "Administration Account", in such form and manner as may be specified by it with the previous approval of the Central Government.

**59. Audit.**—(1) The accounts of the Fund including the "Administration Account", shall be audited in such manner as the Central Government may direct.

(2) The cost of the audit as determined by the Central Government shall be paid out of the "Administration Account".

**60. Members' accounts.**—(1) An account shall be opened in the name of each member in which shall be credited

- (i) his contributions,
- (ii) the contributions made by his employer, and
- (iii) interest, as provided by paragraph 61.

(2) All items of account shall be calculated to the nearest anna.

(3) On receipt of the contribution and emergency cards, if any, of a member <sup>39</sup>[in respect of any period of currency commencing before the 1st of April, 1953] from his employer at the end of the period of currency of the contribution card, the Commissioner shall ascertain the nominal value of the contribution stamps affixed on the card or cards of the member and shall credit to the account of the member, as at the last day of the period of currency, the employer's contribution and the member's contribution included in such nominal amount.

<sup>39</sup>[(4) On receipt of the contribution card of a member in respect of any period of currency commencing on or after the 1st of April, 1953, from his employer at the end of the period of currency of the contribution card, the Commissioner shall ascertain therefrom the total amount of the member's and the employer's contributions paid for the

<sup>38a</sup> Subs. by Notification No. S.R.O. 1340 dated 1st June, 1956, for "Committee."

<sup>39</sup> Ins. by Notification No. S.R.O. 3306 dated the 22nd October, 1954.



member and shall credit the amount to the account of the member as at the last day of the period of currency].

**61. Interest.**—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Central Government in consultation with the Board in respect of the periods of currency of the cards expiring in each financial year.

(2) Interest for the period of currency of the card shall be credited with effect from the last day of the period on the opening balance at the credit of the member on the first day thereof:

Provided that, when the amount standing at the credit of the member has become payable, interest shall thereupon be credited under this sub-paragraph only for the period from the beginning of the current period upto the end of the month preceding the date of tender of payment, or upto the end of the sixth month after the month in which the amount has become payable, whichever is earlier.

<sup>40</sup>[Provided further that the rate of interest to be allowed on claims for refund for the broken period of currency of cards shall be the rate fixed for the financial year in which<sup>41</sup> [the claim becomes payable.]

(3) The aggregate amount of interest credited to the accounts of the members shall be debited to "Interest Suspense Account".

**62. Nomination.**—(1) Each member, or if he is a minor his guardian, shall make in his declaration in Form A, a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made.

(2) A member, or if he is a minor his guardian, may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his own discretion.

(3) If a member has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the member has no family the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member, or if he is a minor by his guardian, after giving a written notice of his intention of doing so in Form M annexed hereto. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Commissioner.

**63. Circumstances in which accumulations in the Fund are payable to member.**—

(1) A member may withdraw the full amount standing to his credit in the Fund—

(a) on permanent retirement from service in the coal mining industry at any time after the attainment of the age of 50 years:

Provided that if at the time of withdrawal he has not completed 5 years as a member of the Fund the employer's contribution and interest thereon shall be forfeited to the Fund <sup>42</sup>[unless he became a member of the Fund before the 1st October, 1948, in which case no such forfeitures will be made and the full amount refunded,] or,

(b) on retirement on account of permanent and total incapacity for work in the coal-fields due to bodily or mental infirmity.

<sup>43</sup>[(2) The Board, or where so authorised by the Board, the Commissioner, or where so authorised by the Commissioner, any officer subordinate to him, may permit a member who has not attained the age of 50 years to withdraw the amount standing to his credit in the Fund, if—

(a) he has migrated from India for permanent settlement abroad, or being a national of a country other than India and having ceased to work in or in connection with a coal mine, declares his intention of leaving India for at least a year, or

<sup>40</sup> Inserted by Notification No. P.F.5(21)/51 dated the 18th January, 1952.

<sup>41</sup> Substituted by Notification No. P.F.5(21)/51 dated the 12th February, 1952.

<sup>42</sup> Inserted by Notification No. P.F.2(2)/51, dated the 23rd April, 1951.

<sup>43</sup> Substituted by Notification No. S.R.O. 366 dated the 8th February, 1956.

(b) he has not been employed in any coal mine to which this Scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal, or

(c) in the case of a member employed on fixed term contract, he does not continue to work in the coalfields after the expiry of his contract:

Provided, however, that the exercise or discharge of the powers so delegated shall be subject to such restrictions, limitations and conditions, if any, as the Board may impose:

Provided further that before the withdrawal is allowed (i) the full amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is less than 10 years, or (ii) half the amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is ten years or more but less than 25 years.]

<sup>44</sup>[(2A) The Central Government may permit any class of members to withdraw at any time after the termination of their services, the full amount standing to their credit and authorise the Commissioner to make payment to individual members of that class in accordance with such instructions as may be issued by the Central Government in this regard; and]

<sup>45</sup>[(3) A member who withdraws under sub-paragraph (2) or a member withdrawing under sub-paragraph (2A) who has not attained the age of 50 years at the time of withdrawal shall be required to join as a new member of the Fund if he obtains employment again in a coal mine and qualifies again for the membership of the Fund.]

(4) All sums forfeited to the Fund under sub-paragraphs (1) and (2) shall be credited to the "Reserve Account" of the Fund.

**64. Accumulations of a deceased member—to whom payable.**—On the death of a member before the amount standing to his credit has become payable, or where the amount has become payable, before payment has been made—

(i) if a nomination made by the member in accordance with paragraph 62 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to his nominee or nominees in accordance with such nomination.

(ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall become payable to the members of his family in equal shares:

Provided that no share shall be payable to—

- (a) sons who have attained majority;
- (b) sons of a deceased son who have attained majority;
- (c) married daughters whose husbands are alive;
- (d) married daughters of a deceased son whose husbands are alive;

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d):

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the member and had not attained the age of majority at the time of the member's death.

<sup>46</sup>[(iii) In any case to which the provisions of clauses (i) and (ii) do not apply <sup>47</sup>[the whole amount that would have been otherwise payable in his case] shall be payable to the person legally entitled to it.

Provided that the Commissioner, where such amount does not exceed Rs. 300 or the Chairman of the Board where it exceeds<sup>48</sup> Rs. 300 but does not exceed Rs. 600, may after giving notices to such persons and in such manner and making such summary inquiry as he thinks fit, make payment of the amount to the person who appears to him to be legally entitled thereto and such payment shall be a full discharge from all liability in respect of the amount paid; but in such a case the Commissioner or as the case may be, the Chairman may before making the payment obtain from the person to whom the payment is made, such security as he considers necessary.]

**NOTE.**—For the purpose of this paragraph a member's posthumous child, if born alive, shall be treated in the same way as a surviving child born before the member's death.

<sup>44</sup> Inserted by Notification No. S.R.O. 366 dated the 8th February, 1956.

<sup>45</sup> Substituted, *ibid.*

<sup>46</sup> Inserted by Notification No. S.R.O. 1208 dated the 28th May, 1955.

<sup>47</sup> Substituted by Notification No. S.R.O. 1747 dated the 6th August, 1955.

<sup>48</sup> The word "of" deleted, *ibid.*

**65. Deductions from the account of members dismissed for serious and wilful misconduct.**—(1) If a member is dismissed by an employer in a coal mine for serious and wilful misconduct, the employer may send intimation thereof to the Commissioner and the Commissioner shall have the power to forfeit the employer's contribution upto a maximum of the employer's contribution in the last two complete periods of currency of the contribution cards and those of the period of currency of the current contribution card.

(2) Before exercising the power of forfeiture conferred on him by sub-paragraph (1), the Commissioner shall call upon the member concerned, by notice in writing, to show cause why the forfeiture should not be made and shall decide the amount of forfeiture after taking into account any representation made by the member.

(3) Each forfeiture made under sub-paragraph (1) shall be brought to the notice of the Board when it meets after the date of such forfeiture and may be reviewed by the Board either at its own instance or at the request of the employer or the member.

(4) Any amount forfeited from the individual account of a member under sub-paragraph (1) shall not be returned to the employer but shall be credited to the "Reserve Account" of the Fund.

**66. Payment of Provident Fund.**—(1) When the amount standing to the credit of a member, or the balance thereof after any deduction under paragraphs 63 or 65 becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme. He shall close the account of the member and give notice in writing to the person to whom the amount is payable, specifying the amount and tendering payment thereof.

(2) If any portion of the amount, which has become payable, is in doubt or dispute, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon after as may be.

<sup>49</sup>[(3) If the person to whom any amount is to be paid under this Scheme, is a minor or lunatic for whose estate a guardian under the Guardians and Wards Act, 1890 (VIII of 1890), or a manager under the Indian Lunacy Act, 1912 (IV of 1912), as the case may be, has been appointed, the payment shall be made to such guardian or manager. If no such guardian or manager has been appointed, the payment shall be made to such person as the Commissioner, where the amount does not exceed Rs. 300 or the Chairman of the Board, in any other case, considers to be the proper person representing the minor or lunatic, and the receipt of such person for the amount paid shall be sufficient discharge thereof.]

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member, he shall retain the amount which will be due to the child in the event of its being born alive, and distribute the balance. If subsequently no child is born or the child is still-born, the amount retained shall be distributed in accordance with the provisions of paragraph 64.

(5) Any person who desires to claim payment under this paragraph shall send a written application to the Commissioner, who may, at the option of the person to whom payment is to be made, make the payment—

- (i) by postal money order at the cost of the payee, or
- <sup>49a</sup>[(i) by postal money order at the cost of the payee, or at any other cost if so determined by the Central Government, or]
- (ii) by crossed cheque sent through post, or
- (iii) by crossed cheque or cash at the office of the Commissioner, or
- (iv) by deposit in the payee's postal savings bank account, if any.

**67. Annual statement of members' account.**—(1) As soon as possible after the close of each period of currency of the contribution card the Commissioner shall send to each member through the employer of the coal mine in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, the total amount credited or debited in the period, the total amount of interest credited at the end of the period and the closing balance at the end of the period.

(2) Members should satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

<sup>50</sup>[**68. Annual Report on the working of the Scheme.**—The Board shall submit to the Central Government by the 30th June each year a report on the working of the Coal Mines Provident Fund Scheme during the previous financial year.]

<sup>49</sup> Subs. by Notification No. P.F.2(13)/51 dated the 5th Sept., 1951.

<sup>49a</sup> Subs. by Notification No. S.R.O. 2136 dated the 29th June, 1954.

<sup>50</sup> Subs. by Notification No. P.F.2(4)/51 dated the 3rd May, 1951.

**69. Issue of duplicate<sup>51</sup> \* \* \* copies of member's accounts, Annual Report, etc.—** The Commissioner shall<sup>52</sup> \* \* \* furnish copies of the member's account and of the annual report of the Fund to any member on written application on payment of such fees and subject to such conditions as may be specified by the Board in this behalf.

**53[69A. Obligation to produce documents before Inspector.—**Where an Inspector in exercise of the powers conferred on him under clause (b) of sub-section (2) of section 10 of the Act requires any person in charge of a coal mine or its office to produce any document before him, that person shall produce such document before the Inspector.]

**53[69B. Transfer of records in case of change of ownership or closure of a coal mine—**(1) In the event of a change in the ownership of a coal mine to which this Scheme applies, the previous owner shall, within a period of one month from the date of change in ownership, transfer to the new owner all records relating to this Scheme and within a fortnight of the transfer of records furnished by registered post or through a messenger a handing and taking over report in Form R annexed hereto, in duplicate, to the Coal Mines Provident Fund Commissioner, duly completed by the new owner who shall take over the records transferred to him under this paragraph and acknowledge the same in the said report.

(2) In the event of any colliery being closed, the owner shall, within a period of one month from the date of closure, forward by registered post or through a messenger, to the Commissioner all records relating to this Scheme and a statement in such Form as the Commissioner may specify, showing the details of the outstanding dues of the Fund, if any.]

**70. Punishment for failure to pay contributions, etc.—**If any person—

- (a) fails to pay any contribution which he is liable to pay under this Scheme or
  - (b) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution, or
  - (c) removes a stamp from a contribution card or uses or attempts to use a stamp which has already been cancelled or defaced or which had previously been affixed to a contribution card, or
  - (d) fails or refuses to submit any return, statement or other document required by this Scheme or submits a false return, statement or other document, or
  - (e) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties, or
  - (f) is guilty of any contravention of or non-compliance with any of the requirements of the Act or of this Scheme in respect of which no special penalty is provided,
- he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

## SCHEDULE A

**53a[(3) List of treasuries at which Coal Mines Provident Fund Contribution Stamps are stocked for issue to registered coal mines.]**

*West Bengal.*—Asansol, Calcutta.

*Bihar.*—Manbhum, Dhanbad, Hazaribagh.

*Madhya Pradesh.*—Baikunthpur, Bilaspur, Chanda, Chhindwara.

*Orissa.*—Sambalpur, Talcher.

**53a[(b) List of Post Offices in which Coal Mines Provident Fund Contribution Stamps are stocked for use to registered coal mines.]** Bihar—Dhanbad, Jharia.

<sup>51</sup> The words "Identity Cards and" and "issue duplicate Identity Cards and" appearing in the original Scheme omitted by Notification No. P.F.2(16)/52, dated the 8th July, 1952.

<sup>52</sup> Inserted by Notification No. P.F.2(11)/52 dated the 24th April, 1952.

<sup>53</sup> Added by Notification No. S.R.O. 3480 dated the 2nd November, 1955.

<sup>53a</sup> Heading numbered (a) and list (b) added by Not. No. S.R.O. 1134 dated 23rd June, 1952.

<sup>54</sup>[SCHEDULE B**West Bengal**

Asansol  
Calcutta  
Bankura  
Suri

**Bihar**

Manbhum  
Dhanbad  
Hazaribagh  
Ranchi  
Palamau  
<sup>54a</sup>[Latchar  
Dumka  
Deoghar]

**Madhya Pradesh**

Manendragarh  
Nagpur  
Baikunthpur  
Bilaspur  
Chanda  
Chhindwara

**Orissa**

Sambalpur  
Talcher

**Rewa**

Shahdol  
Umaria

**Assam**

Shillong  
Sibsagar  
Margherita  
Dibrugarh]

## FORM A

## COAL MINES PROVIDENT FUND

*(Declaration by person employed in a Coal Mine)*

1. Name (in block capitals).....
2. Sex .....
3. Caste or Surname .....
4. Religion .....
5. Occupation .....
6. Height .....
7. Father's Name .....
8. Husband's Name (for married women) .....
9. Marital Status (whether bachelor, spinster, married, widow or widower).....
10. Date of birth—Day..... Month..... Year.....
11. Marks of Identification .....
12. Permanent Address—Village.....Thana.....District.....Province or State.....

I declare that I have/my ward has not previously been a member of the Coal Mines Provident Fund and I hereby direct that the amount at my/my ward's credit in the Coal Mines Provident Fund at the time of my/my ward's death shall be paid to the following person(s) in the manner shown against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulation in the Fund to be paid to the nominee

Date.....

Signature or left hand thumb impression  
of the person employed or his guardian.

<sup>54</sup> Schedule B inserted by Notification No. S.R.O. 3306, dated the 22nd October, 1954.

<sup>54a</sup> Inserted by Notification No. S.R.O. 1057 dated the 3rd May, 1955.

Certified that the above declaration has been signed by/by the guardian of..... employed in my coal mine before me after he has read the entries/the entries have been read over to him by me.

Regd. No. of Coal Mine..... Signature of Manager or other Officer.....

Designation.....

Dated ..... Name and address of Coal Mine .....

## FORM B

## COAL MINES PROVIDENT FUND

*Statement of contributions deposited into the treasury or Imperial Bank of India in respect of the period.....to.....*

## Instructions:

1. Treasury or Bank Challan and declaration forms should accompany this statement.
2. If the declaration form is not sent in any case, reasons should be given in 'Remarks' column.

Name and address of the Coal Mine.

Regd. No. of Coal Mine.

S No.	Name of person employed (In block capitals)	Father's name (or Husband's name in the case of married women)	Amount of Contribution			Account No.*	Remarks
			Employ- er's Share	Member's Share	Total		
Total Amount of contributions.							
			Add 5% Adminis- trative Charges.				Signature of the Manager of Coal Mine.
			Total Amount to be deposited.				
			Amount actually deposited.				
			Treasury or Bank in which deposited.				
			No. and date of Treasury or Bank challan.				

\*To be filled by employer only if an Account No. has already been allotted to the member.

## FORM C

## COAL MINES PROVIDENT FUND

*Election under paragraph 26 of the Coal Mines Provident Fund Scheme*

1. Name (in block capitals).....
2. Sex .....3. Religion .....
4. Father's Name.....
5. Husband's Name (for married women only) .....
6. Date of birth .....
7. Permanent Address .....
8. Name of Provident Fund of which he is already a member.....

I declare that all the particulars stated above are true to the best of my knowledge and belief and I hereby † elect/do not elect to continue to be a member of the aforesaid Provident Fund.

Signature or left hand thumb impression of person employed.

Certified that the above declaration has been signed by..... employed in\* ..... before me and that he is a member of..... Provident Fund, a fund †recognised under the Indian Income-tax Act, 1922/† to which the Provident Funds Act, 1925, applies.

Registered No. of Coal Mine .....

Signature of Manager or other Officer of Coal Mine.

## FORM D

## COAL MINES PROVIDENT FUND

*Contribution Card for employees other than monthly rated employees for the period from.....to.....*

1. Account No. ....
2. Name (in block capitals) ...
3. Caste or Surname .....
4. Sex .....
5. Date of birth .....
6. Occupation .....
7. Father's name .....
8. Husband's name (for married women only).....
9. Marital Status .....
10. Permanent Address—Village.....Thana.....District.....Province or State
11. Signature or left hand thumb impression of member .....
12. Signature of person preparing the card.....
13. Signature of Manager of Coal Mine.....
14. Registered No. of Coal Mine .....
15. Name and address of Coal Mine.....

\*Here give the name of Coal Mine in which employed.

†Score out the portion not applicable.

WARNING			
Any person who removes a stamp from this card or makes use of a stamp removed from a card is liable to prosecution.			
Week 4	Week 5	Week 6	Week 7
			Stamps must not be bought except at a Government treasury
Week 9	Week 10	Week 11	Week 12
Week 15	Week 16	Week 17	Week 18
Week 21	Week 22	NOTICE TO EMPLOYER	
		Each stamp should be firmly affixed and the date of affixing and employer's registered No. at once stamped with metallic die across the face of stamps.	
Week 24	Week 25	Week 26	Week 27
		Week 28	Week 29

Fold Card here do not tear

Week	Week	Week	Week	Week	Week
30	31	32	33	34	35
Week 36	Week 37	Week 38	Week 39	Week 40	Week 41
Week 42	Week 43	Week 44	Stamps must not be bought except at a Government treasury		
Week 47	Week 48	Week 49	Week 50	Week 51	Week 52
SUMMARY OF STAMPS AFFIXED					
Number	Denomination of stamps affixed		Nominal Value of stamps affixed		Signature of employer's clerk
	Rs.	As.	Rs.	As.	
					Checked and found correct
Total nominal value of stamps.				Signature of the clerk in the office of the Commissioner.	



Account No.....

## Particulars of emergency cards issued

Serial No.	Registered No. of Coal Mine issuing the emergency card	Period for which emergency card issued		Remarks
		From	To	

## Particulars of employment

Registered No. of Coal Mine	Duration of employment		Remarks	Initials of employer's clerk
	From	To		

<sup>55</sup>[FORM D (Revised)]

## COAL MINES PROVIDENT FUND

*Contribution Card for employees other than monthly rated employees for the period from ..... to.....*

1. Account No.....
2. Name (in block capitals).....
3. Caste or surname.....
4. Sex.....
5. Date of birth.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital status.....
10. Permanent address—Village..... Thana..... P. O. ....  
District..... Province or State.....
11. Signature or left hand thumb impression of member.....
12. Signature of person preparing the card.....
13. Signature of Manager of Coal Mine.....
14. Registered No. of Coal Mine.....
15. Name and address of Coal Mine.....

<sup>55</sup> Inserted by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

COAL MINES PROVIDENT FUND SCHEME, 1948

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Week	Wages earned (Pies to be taken as one anna)		Contributions		Under Charge (+) Over Charge (-)	
	Rs	A <sup>s</sup>	Rs	As	Rs	As
1st						
2nd						
3rd						
4th						
5th						
6th						
7th						
8th						
9th						
10th						
11th						
12th						
13th						
Total						

Week	Wages earned (Pies to be taken as one anna)		Contributions		Under Charge (+) Over Charge (-)	
	Rs	A <sup>s</sup>	Rs	As	Rs	As
14th						
15th						
16th						
17th						
18th						
19th						
20th						
21st						
22nd						
23rd						
24th						
25th						
26th						
27th						
28th						
29th						
30th						
31st						
32nd						
33rd						
34th						
35th						
36th						
37th						
38th						
39th						
Total						

Contributions		Under Charge (+)		Over Charge (-)		Week	Wages earned (Pies to be taken as one anna)	Contributions		Under Charge (+)		Over Charge (-)		SUMMARY OF CONTRIBUTIONS					
Rs.	As.	Rs.	As.	Rs.	As.			Rs.	As.	Rs.	As.	Rs.	As.	Period	Contri- butions		Under charge (+) Over Charge (-)		
													From	To	Rs.	As.	Rs.	As.	
						40th													
						41st							1st week	13th week					
						42nd							14th week	26th week					
						43rd							27th week	39th week					
						44th							40th week	52nd/ 53rd week					
						45th													
						46th													
						47th													
						48th													
						49th													
						50th													
						51st													
						52nd													
						53rd													
													Total Contributions						
													Add on Account of Under Charge						
													Deduct on Account of Over Charge						
													Net amount of Contri- bution*						
<p>*To agree with the amount shown in Statement 'I' for credit to the member's Fund Account.</p> <p>Signature of Employer's Clerk</p> <p>Checked and found correct.</p> <p>Signature of Clerk in</p> <p>C. M. P. F. Office</p>																			

COAL MINES PROVIDENT FUND SCHEME, 1948

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Particulars of Employment

Registered No. of Coal Mine	Duration of Employment		Remarks	Initials of employer's clerk
	From	To		

FORM E

COAL MINES PROVIDENT FUND

Contribution Card for monthly rated employees for the period from.....to.....

1. Account No.....
2. Name (in block capitals).....
3. Caste or Surname.....
4. Sex.....
5. Date of birth.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital Status.....
10. Permanent Address:—Village.....Thana.....District.....  
Province or State.....
11. Signature or left hand thumb impression of member.....

FOLD CARD HERE DO NOT TEAR

- Account No.....
12. Signature of person preparing the card.....
13. Signature of Manager of Coal Mine.....
14. Registered No. of Coal Mine.....
15. Name and address of Coal Mine.....

Particulars of Employment

Registered No. of Coal Mine	Period of employment		Remarks	Initials of employer's clerk
	From	To		

<b>WARNING</b> Any person who removes a stamp from this card or makes use of a stamp removed from a card is liable to prosecution			Month 1
Month 2	Month 3	Month 4	Month 5
Month 6	Month 7	Stamps must not be bought except at a Government Treasury	Month 8
Month 9	Month 10	Month 11	Month 12

FOLD CARD HERE DO NOT TEAR

## Notice to Employer

Each stamp should be firmly affixed and the date of affixing and employer's registered No. at once stamped with metallic die across the face of stamp.

## Summary of stamps affixed

Number of stamps	Denomination of stamps		Nominal value of stamps		Signature of employer's clerk
	Rs.	As.	Rs.	As.	
					Checked and found correct
Total nominal value of stamps affixed					Clerk of the Office of the Commissioner

## Particulars of Emergency Cards issued

	Employer's Registered No.	Period for which issued		Remarks
		From	To	

56[FORM E (Revised)]

## COAL MINES PROVIDENT FUND

*Contribution Card for monthly rated employees for the period from... .. to... ..*

1. Account No... ..
2. Name (in block capitals) .....
3. Caste or Surname.....
4. Sex.....
5. Date of birth.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only)....
9. Marital Status.....
10. Permanent Address—Village... .. P. O..... Thana..... District.....  
Province or State ... ..
11. Signature or left hand thumb impression of member.....

FOLD CARD HERE DO NOT TEAR

- Account No.....
12. Signature of person preparing the card.....
  13. Signature of Manager of Coal Mine .....
  14. Registered No. of Coal Mine.....
  15. Name and address of Coal Mine.....

## Particulars of Employment

Registered No. of Coal Mine	Period of employment		Remarks	Initials of employer's clerk
	From	To		

56 Inserted by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

Month	Wages earned. (Pies to be taken as one anna)		Contributions		Under charge (+) Over charge (-)		Month	Wages earned. (Pies to be taken as one anna)		Contributions		Under charge (+) Over charge (-)	
	Rs.	as.	Rs.	as.	Rs.	as.		Rs.	as.	Rs.	as.	Rs.	as.
							B. F.						
1st							7th						
2nd							8th						
3rd							9th						
4th							10th						
5th							11th						
6th							12th						
Total C. O.							Total						

FOLD CARD HERE DO NOT TEAR

	Rs.	As.
Total Contributions . . . . .		
Add on account of under charge . . . . .		
Deduct on account of over charge . . . . .		
Net amount of Contribution* . . . . .		

\*To agree with the amount shown in the statement 'I' for credit to Member's Fund Account

Signature of employer's clerk.

Checked and found correct.

Signature of clerk in C.M.P.F. Office.]

## FORM F

## COAL MINES PROVIDENT FUND

Emergency Contribution Card for the period from.....to.....

1. Account No.....
2. Name (in block capitals).....
3. Caste or Surname.....
4. Sex.....
5. Occupation .....
6. Father's name.....

7. Husband's name (for married women only).....
8. Marital status.....
9. Permanent address—Village.....Thana.....District.....Province or State.....
10. Signature or left thumb impression of member.....
11. Signature of person preparing the card.....
12. Signature of Manager of Coal Mine.....
13. Registered No. of Coal Mine.....
14. Name and address of Coal Mine.....
15. Space for Stamps—

--	--	--	--

16. Total nominal value of stamps affixed.....
17. Signature of employer's clerk.....
18. Checked and found correct.....

Clerk of the Office of the Commissioner.

## FORM H

## COAL MINES PROVIDENT FUND

*Return of persons employed who qualified for membership of the Coal Mines Provident Fund during the quarter.....to.....*

(To be sent to the Commissioner in duplicate with Form A)

Name and address of Coal Mine.

Regd. No. of Coal Mine.

Serial No.	Name of employee (in block capitals)	Father's name (or Husband's name in case of married women)	Category of employee's work	Sex	Account No. (not to be filled by employer)	Remarks

Dated .....

Signature of Manager of Coal Mine.

## FORM I

## COAL MINES PROVIDENT FUND

*Return of Contribution Cards sent to the Commissioner on completion of contribution year.....19.....to.....19.....*

(To be sent in duplicate)

Name and address of Coal Mine.

Regd. No. of Coal Mine.

Serial No.	Account No.	Name of member (in block capitals)	Number of emergency cards sent	Total contribution		Remarks	Space for use in Commissioner's office
				Rs.	As.		
Total amount of contributions							

Total number of Cards sent.

Signature of Manager of Coal Mine.

Dated .....



## 57[FORM I (Revised)]

FORM I. (Revised) Outer.

## COAL MINES PROVIDENT FUND

Return of Contribution Cards sent to the Commissioner on completion of contribution  
year.....19 to 19.....

(To be sent in duplicate.)

Name and Address of Coal Mine .....Registered No. of Coal Mine.....

Serial No.	Account No.	Name of mem- ber. (In block capitals)	Father's or Hus- band's name (in the case of married women)	Total contribution		Remarks	Space for use in Com- missioner's office
				Rs.	As.		
Total amount of contributions.							

FORM I. (Revised) Inner.

Serial No.	Account No.	Name of mem- ber. (In block capitals)	Father's or Hus- band's name (in the case of married women)	Total contribution		Remarks	Space for use in Com- missioner's office
				Rs.	As.		
Total amount of contribution							

Total number of cards sent .....

## Details of Payment:

Nos. and dates of challans/cheques/ Bank draft/'Pay in' Slips	Amount		Name of Treasury/Bank in which deposited
	Rs.	As.	

Dated 19

Signature of Manager of Coal Mine.

## FORM J

## COAL MINES PROVIDENT FUND

*Challan of Contribution Cards sent to.....*

*Instructions.*—This form should be prepared in triplicate or duplicate according as the cards are sent to the new employer or the Commissioner. In case the cards are sent to the new employer the extra copy should be sent to the Commissioner. One copy will be returned by the recipient duly acknowledged.

Serial No. 1	Account No. 2	Name of member (in block capitals) 3	Contribution card sent (S) not sent (N) 4	Emergency cards (Number sent) Nil 1, 2, 3, etc. 5	Remarks 6

No. of Contribution Cards .....

No. of Emergency Cards.....

Total No. of Cards sent ..

Dated .....

Signature of Manager  
Name and address of Coal Mine  
Regd. No. of Coal Mine.

## FORM K

## COAL MINES PROVIDENT FUND

*Challan of Contribution Cards sent to .....*

*Instructions.*—This form should be sent in duplicate. The.....recipient will return one copy, duly acknowledged.

Serial No.	Account No.	Name of member (in block capitals)	Contribution card sent (S) not sent (N)	Emergency cards (Number sent) Nil 1, 2, 3, etc.	Remarks

No. of Contribution Cards.....

No. of Emergency Cards.....

Total No. of Cards sent..... Coal Mines Provident Fund Commissioner.

Dated .....

## FORM L

## COAL MINES PROVIDENT FUND

*Requisition for Contribution Cards*

The following persons, who have joined this coal mine, are understood to be members of the Coal Mines Provident Fund and to have been working in your coal mine/not to have worked in any coal mine during.....or..... It is requested

that their Contribution Cards, Emergency Contribution Cards, if any, may kindly be sent to us:—

Serial No.	Member's name (in block capitals)	Father's name (or Husband's name in case of married women)	Account number (as stated by the member)	Probable date of leaving the coal mine

Regd. No. of Coal Mine.....

Signature of Manager or other Officer.

Dated.....

Name and address of Coal Mine.

To

.....  
 .....

### FORM M

#### COAL MINES PROVIDENT FUND

I.....hereby cancel the nomination made by me/my guardian on.....as regards the disposal, in the event of my/my ward's death of the amount standing to my/my ward's credit in the Coal Mines Provident Fund and direct that the amount at my/my ward's credit in Account No.....of the Coal Mines Provident Fund at the time of my/my ward's death shall be paid to the following person(s) in the manner shown against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of Nominee	Amount or share of accumulation in the Fund to be paid to the nominee
1	2	3	4

Dated.....

Signature or left hand thumb impression of member or his guardian.

Certified that the above declaration has been signed by (1).....employed in.....(2) the guardian of.....employed in.....before me. ....

Registered No. of Coal Mine.

Signature of Manager.

## FORM N

## COAL MINES PROVIDENT FUND

*Indent for Purchase of Contribution Stamps*

To

The Treasury Officer,

Please supply for the use of the under mentioned coal mine the following Contribution Stamps for which the bearer will pay cash/by cheque No.....dated.....drawn on.....

Denomination of the Stamp	Number of stamps required	Nominal value of stamps	
		Rs.	As.
<i>Monthly rated employees</i>			
One Rupee and four annas . . . . .			
Two Rupees . . . . .			
Three ,, . . . . .			
Four ,, . . . . .			
Six ,, . . . . .			
Eight ,, . . . . .			
Ten ,, . . . . .			
Twelve ,, . . . . .			
Fourteen ,, . . . . .			
Sixteen ,, . . . . .			
Eighteen ,, . . . . .			
Twenty ,, . . . . .			
Twentyfour,, . . . . .			
Thirty ,, . . . . .			
<i>Other employees</i>			
Four Annas . . . . .			
Six ,, . . . . .			
Eight ,, . . . . .			
Twelve ,, . . . . .			
One Rupee . . . . .			
One Rupee and Four Annas . . . . .			
,, ,, Eight ,, . . . . .			
Total nominal value of stamps.			
Add 5% Administrative charge			
Total amount payable for the purchase of stamps			

Signature of Manager of Coal Mine.

Regd. No. of Coal Mine.

Name and address of Coal Mine.

## FORM O

## COAL MINES PROVIDENT FUND

*Classified Summary of the assets of the Coal Mines Provident Fund on the.....*

Class of Assets	Book value as per (a) below	Market value as per (b) below	Remarks as per (c) below
	Rs.	Rs.	Rs.
1. Govt. of India Securities . . . . .			
2. Indian State Govt. Securities . . . . .			
3. Indian Municipal, Port and Improvement Trust Securities including debentures . . . . .			
4. Debentures of Indian Railways . . . . .			
5. Guaranteed and Preference shares of Indian Railways . . . . .			
6. Annuities of Indian Railways . . . . .			
7. Ordinary shares of Railways in India . . . . .			
8. Other debentures of concerns in India . . . . .			
9. Other guaranteed and Preference shares of concerns in India . . . . .			
10. Other Ordinary shares of concerns in India . . . . .			
11. Cash on deposit in Banks . . . . .			
12. Cash in hand and on Current account in Banks . . . . .			
13. Other assets . . . . .			
(to be specified)			

The summary shall show—

(a) the value for which credit is taken in the accounts for each of the above-mentioned classes of assets,

(b) the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations,

(c) how the value of such of the above-mentioned classes of assets as has not been ascertained from published quotations has been arrived at.

## 58 [FORM P

## COAL MINES PROVIDENT FUND

*Monthly abstract of deposits towards the Coal Mines Provident Fund for the month of 19...*

(To be submitted to the Coal Mines Provident Fund Commissioner in duplicate by the 15th of each month by Registered Post or through a messenger along with the original challan/Bank receipt/cheque/draft.)

		Rs.	as.		Rs.	as.
1.	Total wages earned by members of C.M.P.F.					
2.	Provident Fund Contribution (Employer's & Employee's share)					
3.	Add on account of under charges (both shares) for the month of—					
(i)	.....					
(ii)	.....					
(iii)	.....					
(iv)	.....					
4.	Deduct on account of over charges for the month of—			Total u/c		
(i)	.....					
(ii)	.....			Total o/c ( <i>minus</i> )		
5.	Net Total (2 + 3 - 4)					
6.	Administrative charges <sup>59</sup> *      *	*	*			
7.	Total in figures (5 + 6)					
8.	Total in words (5 + 6) Rupees.....					
9.	* (i) Deposited under Treasury challan No.....dated.....in.....Treasury (original challan attached).					
	* (ii) Deposited in the Imperial Bank of India, Dhanbad, on.....for credit to Coal Mines Provident Fund Account No. I (Receipted 'Pay-in slip' attached).					
	* (iii) Remitted vide crossed Account Payee cheque/crossed Account Payee draft No.....dated.....on the Imperial Bank of India, Dhanbad, in favour of Coal Mines Provident Fund Account No. I (cheque or draft attached).					

**Manager / Agent,**

.....Colliery.

C.M.P.F. Regd. No.....

Zone.....

**Dated** .....19....

\*Delete portions not applicable.

*For use of the Coal Mines Provident Fund Inspectors only:—*

Received from Coal Mines Provident Fund Commissioner on (date).....

Checked with the records of the colliery on (date).....Discrepancies detected have been included in my Inspection Report No.....dated.....Under charges detected have been noted in the connected contribution cards.

**Dated**.....**19**.....

*Inspector, C. M. P. F. / Junior Labour Inspector.]*

<sup>58</sup> Inserted by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>59</sup> Deleted by Notification No. S.R.O. 1852 dated the 20th August, 1955.

<sup>60</sup>[FORM Q

## COAL MINES PROVIDENT FUND

*Declaration to be completed by persons joining any coal mine to which the Coal Mines Provident Fund Scheme applies*

I,.....(in block capitals), son of/daughter of/wife of\*.....  
hereby declare that I was previously employed as.....in.....colliery.....  
(address of the coal mine) and that am/am not\* a member of the Coal Mines Provident Fund.

Account No. of the employee, if any.....

*Signature/thumb impression of the employee.*

Certified that the contents of this declaration have been explained to the employee who has signed/thumb impressed it in my presence.

Dated.....19.....

*Manager/Agent,*  
.....Colliery.  
C.M.P.F. Regd. No.....]

\*Delete portions not applicable.

<sup>61</sup>[FORM R

## COAL MINES PROVIDENT FUND

*Handing and taking over report to be rendered to Coal Mines Provident Fund Commissioner in the event of a change in the ownership of a coal mine.*

1. Name and address of the coal mine.....
2. Registered No. of the coal mine.....
3. Name and address of the previous owner(s). ....
4. Name and address of the new owner(s) .....
5. Date on which ownership changed.....
6. I have transferred the following records to .....on... (date) .....\*

(name of the new owner)

and a sum of Rs.....is due to be paid to the Coal Mines Provident Fund on account of Provident Fund contribution and administrative charge for the period from .....to.....in respect of the employees mentioned overleaf —

(i).....  
(ii).....

(iii).....  
(iv).....

Date.....

(Signature of the previous owner or his authorised agent or his manager).

7. I have received the records mentioned at 6 above on ..... (date) .....  
(Signature of the new owner or his authorised agent or manager).

\*Delete if nothing is due to be paid.

Statement of Provident Fund contribution due for the period from.....to.....

S. No.	Account No.	Name of member	Father's/Husband's name	Amount of Provident Fund Contribution (both shares)	Remarks
TOTAL					
(Add) Administrative charges.....					
GRAND TOTAL					

\*Separate statement shall be prepared for each currency period.

*(For use of the Coal Mines Provident Fund Inspectors)*

Received from the Coal Mines Provident Fund Commissioner on (date).....  
Checked with the records of the colliery on (date).....Discrepancies detected have been included in my Inspection Report No.....dated.....  
Undercharges detected have been noted in the connected contribution cards.

Inspector, C.M.P.F / Junior Labour Inspector (Central).]

<sup>60</sup> Inserted by Notification No. S.R.O. 3306 dated the 22nd October, 1954.

<sup>61</sup> Inserted by Notification No. S.R.O. 3480 dated the 2nd November, 1955.

## **EMPLOYEES PROVIDENT FUND LEGISLATION**

### **Compulsory Provident Fund for Industrial Workers**

There was no statutory provision for the institution of compulsory provident fund schemes for industrial workers in India. The subject was discussed in the ninth session of the Indian Labour Conference held in April, 1948 when the Labour Minister stated that the Government would watch the working of the compulsory provident fund scheme for coal miners recently introduced and in the light of the experience gained therefrom, a comprehensive scheme for other industries would be framed and placed before the Standing Labour Committee.

The subject was again discussed at the twelfth meeting of the Standing Labour Committee held in November, 1950 and the Government agreed to draft a Bill and circulate it to the members of the Committee, as there was an unanimous recommendation for the introduction of a scheme of provident fund for industrial workers.

The urgency of enacting the legislation was emphasised at the conference of the Labour Ministers held in January, 1951 and the Central Government came to the conclusion of initiating the requisite legislative measure as the provident fund scheme was already discussed in principle in the twelfth meeting of the Standing Labour Committee.

### **Employees' Provident Funds Ordinance, 1951 (Ord. VIII of 1951)**

The Central Government promulgated the Employees' Provident Funds Ordinance on the 15th November, 1951 for the institution of compulsory provident funds for employees in factories and other industrial establishments. The Ordinance has come into force on that date and applies to all factories which are in existence for three years employing 50 or more persons and engaged in the manufacture or production of cement, cigarettes, electrical, mechanical or general engineering products, iron and steel, paper and textiles.

The Ordinance authorised the Central Government to frame a Scheme called the Employees' Provident Funds Scheme for the establishment of provident funds for the various classes of employees. The Scheme will cover certain matters enumerated in the Schedule II of the Ordinance. The employer and the employee are required each to contribute 6½ per cent. of the basic wages and dearness allowance payable to the employee. The Ordinance provides for the continuance of the existing schemes of provident fund in the factories till a regular scheme is framed.

### **Employees' Provident Funds Act, 1952 (XIX of 1952)**

The Central Government introduced a Bill in the Parliament on the 14th February, 1952 with a view to replace the Ordinance, which was passed on the 23rd February, 1952 and received the assent of the President on the 4th March, 1952 (XIX of 1952).

### **Main Provisions of the Employees' Provident Funds Act, 1952**

The Act extends to the whole of India except the State of Jammu and Kashmir and applies, in the first instance, to factories employing 50 or more persons and engaged in the manufacture or production of the following six scheduled industries—(1) cement; (2) cigarettes; (3) electrical, mechanical or general engineering products; (4) iron and steel; (5) paper and (6) textiles (made wholly or in part of cotton or wool or jute or silk, whether natural or artificial). The Central Government are empowered to add any other industry to the Schedule



and also to apply the provisions of the Act to the scheduled industries employing less than 50 persons.

The Act will not apply to any factory belonging to the Government or a local authority or to any other factory unless three years have elapsed from its establishment. The appropriate (Central or State) Government are empowered to exempt, subject to certain conditions, (a) any factory if its provident fund rules with respect to contributions are in conformity with or are more favourable to the employees than those specified in the Act and if the appropriate Government are satisfied that the provident fund benefits enjoyed by the employees are on the whole not less favourable than the benefits provided under the Act, or (b) any class of persons if the Central Government feel that such persons are entitled to benefits in the nature of old age pension or gratuity or both and that such benefits are on the whole not less favourable to such persons than the benefits provided under the Act.

The contributions of both the employer and employee have been fixed at the rate of one anna in a rupee or  $6\frac{1}{4}$  per cent. of the basic wages plus dearness allowance. An employee may undertake to increase his contribution to a maximum of  $8\frac{1}{4}$  per cent. of his basic wages and dearness allowance.

The Act provides that the amount standing to the credit of any member in the fund shall not be liable to attachment under any decree or order of any Court. The Act further provides that any amount standing to the credit of any member at the time of his death payable to his nominee under the Scheme, shall subject to any authorised deduction, vest in the nominee free from any debt or other liability incurred by the deceased or by the nominee before the death of the member.

The Act authorises the Central Government to frame a Scheme for the establishment of provident funds under the Act for the employees or any class of employees and specify the factory or factories to which the said Scheme shall apply.

The Fund shall be deemed to be a recognised provident fund within the meaning of the Chapter IX-A of the Indian Income-tax Act, 1922.

The Act provides that all provident fund schemes in existence in factories on the 15th November, 1951 shall be continued without any modifications till a regular scheme is made applicable to them. The accumulation standing to the credit of the employees shall be transferred to the new fund after the regular scheme is enforced.

The Act prohibits the reduction of the wages of an employee because of the contribution that has become payable by the employer. The employer is also prohibited to discontinue or reduce any benefit to which the employee is entitled under the terms of his employment.

### **Employees' Provident Funds Scheme, 1952**

The Scheme framed by the Central Government under the Act was finally published in the Gazette of India Extraordinary dated the 2nd September, 1952. Under the Scheme, every person, except an excluded employee, is required to become member of the provident fund on completing one year's service.

An excluded employee is an employee (i) who after becoming member of the provident fund withdrew the full amount of his accumulations on retirement after attaining the age of 55 years or on retirement due to total incapacity on account of bodily or mental infirmity; (ii) whose monthly basic wages exceed Rs. 300; (iii) who is employed by or through a contractor; (iv) who is an apprentice; (v) who is exempted from the operation of the scheme under Section 17 of the Act and (vi) who is employed for not less than ten years in a factory to which the

scheme applies and who by a declaration in writing has opted for the benefits to which he was entitled before the date of notification issued under section 17 (b) of the Act.

Under the Scheme an employee who is a member of the fund shall not cease to be a member after leaving the factory to which the scheme applies. An employee whose monthly basic wages exceed Rs. 300 after he has become a member of the fund is permitted to continue the membership but the contribution payable by him and in respect of him is not to exceed one anna in the rupee on Rs. 300 and the dearness allowance admissible on this amount. Any subscriber, other than an excluded employee, to a provident fund recognised under Chapter IX-A of the Indian Income-tax Act, 1922 or to which the Provident Funds Act of 1925 applies, shall become a member of the Fund under the scheme, unless he applies to the Commissioner for the Employees' Provident Fund, within three months from the date of the enforcement of the scheme, to continue the membership of the old fund.

The Scheme requires that every authority in charge of, or entrusted with the management of any provident fund in existence on the 15th of November, 1951, has to send a return before the 1st of January, 1953 or such later date fixed by the Board of Trustees of the Fund under the Act, showing the amounts standing to the credit of each subscriber and advances taken by him, if any and also to transfer to the fund in cash the total accumulations standing to the credit of the subscribers.

The rate of employee's contribution is fixed at one anna in the rupee of basic wages and dearness allowance actually drawn during the whole month, whether paid on daily, weekly, fortnightly or monthly basis, calculated to the nearest quarter of a rupee. The employer is required to contribute an equal amount and pay the same along with the employee's contribution which can be recovered from his wages by means of deduction. Besides the contributions, the employer is required to pay an administrative charge for meeting the expenses for the administration of the fund. By a notification dated the 28th January, 1952, the Central Government has fixed 3% of the total employers' and employees' contributions as administrative charges. No administrative charge was previously payable by factories exempted under section 17 of the Act, but it is now fixed at  $\frac{3}{4}$ %.

A member is permitted to withdraw any amount out of his own contributions standing to his credit in the fund, once in every six months, for the purpose of payment of life insurance premium.<sup>1</sup> The insurance policy has to be assigned to the Board and delivered to the Commissioner as security.

Total accumulations in the fund are payable to the member (1) on retirement after attaining superannuation age and (2) on retirement on account of permanent and total incapacity to work in any industry due to bodily or mental infirmity duly certified.

### **Employees' Provident Funds (Amendment) Ordinance, 1953 (Ord. I of 1953)**

The actual working of the Act and the Scheme framed thereunder revealed certain defects and administrative difficulties. Various proposals for amendment

<sup>1</sup> At the time of piloting the Bill in the Parliament, the Labour Minister said, "I would not agree to-day to any withdrawal from the provident fund. If in three or four years the country makes any progress and workers in the country are placed in a more secure position, we may consider whether we would advance loan or not. One thing has appeared to me, no doubt, and that is advancing certain amounts out of the provident fund for the payment of insurance premium, that is for the very purpose for which the fund is meant. That means that they will not be spending the money on marriages or death ceremonies and things like that but they will be paying that portion which they take as advances or loans from the provident fund towards their insurance premium." (Parliamentary Debates, 1952, Vol. I, Part II, pp. 1186-1187)

Wages Act applies at present to employees receiving a monthly salary of Rs. 200, there is a proposal to raise the limit also to Rs. 400.

### Enhancement of Contribution & Other Suggestions

There was a demand from some members for permission to save up to the maximum limit of  $8\frac{1}{3}\%$  (1 anna 4 pies per rupee) contemplated in the Act and also a suggestion that the members should be permitted to contribute as much as they desire without prescribing any upper limit for the voluntary contribution.

The question of enhancing the rate of contribution from  $6\frac{1}{4}\%$  to  $8\frac{1}{3}\%$  was considered by the Joint Consultative Board of Industry and Labour in the meeting held on the 16th September, 1955. The employers' representatives did not agree to raise their share of contribution from the present rate of  $6\frac{1}{4}\%$  to  $8\frac{1}{3}\%$  of the basic wages and dearness allowance and expressed the view that the scheme should be given more time before the rate of contribution was enhanced. This question was also discussed in the meeting of the Labour Panel of the Planning Commission held in September, 1955. The Sub-Committee appointed by the Panel suggested that the Planning Commission should take steps to draw up a comprehensive social insurance scheme merging all the existing schemes and this report was discussed at a meeting of the Labour Panel held in February, 1956 but a final decision was not taken as the question needed further exploration.

The proposal whether the Employees' Provident Funds Scheme should be amended to permit employees to contribute up to  $8\frac{1}{3}\%$  of their basic wages and dearness allowance or whether the Act should be amended to allow them to contribute even more than  $8\frac{1}{3}\%$  was made in a Memorandum placed before the fifteenth meeting of the Standing Labour Committee held at Delhi in April, 1956. The Labour Minister explained that there was insurmountable difficulty in giving effect to this proposal and stated that the question would further be examined.

The Planning Commission in the Second Five Year Plan recommended that the Scheme should be extended to cover industries and commercial establishments having 10,000 workers or more and suggested that enhancement of contribution from  $6\frac{1}{4}\%$  to  $8\frac{1}{3}\%$  should be further studied and conversion of provident fund into a suitable pension scheme should be examined.

## EMPLOYEES' PROVIDENT FUNDS ACT, 1952 (XIX OF 1952)

### Statement of Objects and Reasons<sup>1</sup>

The question of making some provision for the future of the industrial worker after he retires or for his dependants in case of his early death, has been under consideration for some years. The ideal way would have been provision through old age and survivors' pensions as has been done in the industrially advanced countries. But in the prevailing conditions in India, the institution of a pension scheme cannot be visualised in the near future. Another alternative may be for provision of gratuities after a prescribed period of service. The main defect of a gratuity scheme, however, is that the amount paid to a worker or his dependants would be small, as the worker would not himself be making any contribution to the fund. Taking into account the various difficulties, financial and administrative, the most appropriate course appears to be the institution compulsorily of contributory provident funds in which both the worker and the employer would contribute. Apart from other advantages, there is the obvious one of cultivating among the workers a spirit of saving something regularly. The institution of a provident fund of this type would also encourage the stabilisation of a steady labour force in industrial centres.

2. The subject of legislation for institution compulsorily of contributory provident funds in industrial undertakings was discussed several times at tripartite meetings in which representatives of the Central and State Governments and of employers and workers took part. A large measure of agreement was reached that there should be such legislation. Further,

<sup>1</sup> Gazette of India, 1952, Part II—Sec. 2, pages 67—69.

a non-official Bill on this subject was introduced in the Central Legislature in 1948 and was withdrawn only on an assurance given that Government itself would soon consider the introduction of a comprehensive Bill. The view that the proposed legislation should be undertaken was lastly endorsed by the Conference of Provincial Labour Ministers held in January, 1951. It may be added that a statutory Contributory Provident Fund already exists for workers in coal mines, covering about 300,000 persons. This has been in operation for about five years and is working very satisfactorily.

3. The Bill provides for institution, in the first instance, of contributory provident funds in the six major organised industries named in Schedule I, except undertakings owned by the Central or a State Government or by a local authority. There is also a provision empowering the Central Government, by notification, to add other industries to the Schedule or to apply the Act to industrial undertakings employing less than fifty persons.

4. To avoid any hardship to new establishments, a provision has been made for exempting them for a period of three years and similar exemptions are given to other establishments which are less than three years old till they have been in operation for a period of three years in all. The rate of contribution will be 6½ per cent. of the total emoluments of the worker, the worker and the employer each contributing these amounts. Further, the scheme could empower payment of a higher subscription by the workers at their option.

5. Where Provident Funds exist in private industry, contributions are usually a percentage of the basic wage. Unlike Government Departments, wages in private industry have not, however, been rationalised and there are very great variations in the level of basic wages in private industry, even in different units in the same industry. If contributions are reckoned on the basis of basic wage only, there will, therefore, be wide changes in the degree of benefit received. This will be unfair to the workers and may also penalise those employers who have brought the level of basic wages more in accord with current requirements. Government appreciates that dearness allowance is a variable factor depending on the cost of living. Nevertheless, for the reasons explained, Government is satisfied that contributions to the Provident Fund should be on the basis of basic pay *plus* dearness allowance. This should not be construed as in any way implying that dearness allowances on the existing rates are to be recognised as a permanent measure.

6. Most of the details relating to the Fund will be settled in accordance with a Scheme which, in the interest of uniformity, will be framed by the Central Government. The administration will, to a large extent, be decentralised in regard to undertakings falling within the sphere of State Governments.

7. Where provident funds offering equal or more advantageous terms are operating efficiently, provision has been made for them to continue subject to certain safeguards in the interest of the workers.

8. This Bill, when enacted, will repeal and re-enact an Ordinance promulgated on the same lines on the 15th November, 1951.

## AMENDING ACT OF 1953 (XXXVII OF 1953)

### Statement of Objects and Reasons<sup>2</sup>

The working of the Employees' Provident Funds Act has brought out certain defects.

The principal defect relates to the application of the Act and the Scheme. There are considerable doubts regarding the expressions used in Schedule I. No authority has been prescribed for removing doubts and difficulties. There is no power for applying the Scheme to a factory not covered by the Act even when the employer and the employees ask for such application.

At present the employees of exempted factories are not entitled to the benefits of nomination, protection against attachment or prior claim on the assets of an insolvent employer. It is not possible to grant exemption to any factory from the operation of the Scheme on economic grounds.

There are also certain administrative difficulties to be set right. There is no provision for inspection of exempted factories; nor is there any provision for the recovery of dues from such factories. An employer can delay payment of provident fund dues without any additional financial liability. No punishment has been laid down for contraventions of some of the provisions of the Act.

This Bill seeks primarily to remedy these defects.

<sup>2</sup> Gazette of India, 1953, Part II—Sec. 2, page 910.

# EMPLOYEES' PROVIDENT FUNDS ACT, 1952 (XIX OF 1952)

## Arrangement of Sections

1. Short title, extent and application.
  2. Definitions.
  3. Power to apply Act to establishment which has a common provident fund with a factory.
  4. Power to add to Schedule I.
  5. Employees' Provident Fund Schemes
  6. Contribution and matters which may be provided for in schemes.
  7. Modification of scheme.
  8. Mode of recovery of moneys due from employers.
  9. Fund to be recognised under Act XI of 1922.
  10. Protection against attachment.
  11. Priority of payment of contribution over other debts.
  12. Employer not to reduce wages, etc.
  13. Inspectors.
  14. Penalties.
  - 14A. Offences by companies.
  - 14B. Power to recover damages.
  15. Special provisions relating to existing provident funds.
  16. Act not to apply to factories belonging to Government or local authority and also to infant factories.
  17. Power to exempt.
  18. Protection for acts done in good faith.
  19. Delegation of powers.
  - 19A. Power to remove difficulties.
  20. Repeal of Ordinance VIII of 1951.
- SCHEDULES.

## EMPLOYEES' PROVIDENT FUNDS ACT, 1952 (XIX OF 1952)<sup>1</sup>

*An Act to provide for the institution of provident funds for employees in factories and other establishments.*

[4th March, 1952]

Be it enacted by Parliament as follows:—

**1. Short title, extent and application.**—(1) This Act may be called the Employees' Provident Funds Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions contained in section 16, it applies in the first instance to all factories engaged in any industry specified in Schedule I in which fifty or more persons are employed, but the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act, to all factories employing such number of persons less than fifty as may be specified in the notification and engaged in any such industry.

<sup>2</sup>[(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Government, whether on an application made to it in this behalf or otherwise, that the employer and the majority of employees in relation to any factory have agreed that the provisions of this Act should be made applicable to the factory, it may, by notification in the Official Gazette, apply the provisions of this Act to that factory.]

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1952. Part II—Section 2, pages 67—69; see also page 1194 ante.

<sup>2</sup> Added by s. 2 of the Employees' Provident Funds (Amendment) Act, 1953 (37 of 1953)

**2. Definitions.**—In this Act, unless the context otherwise requires,—**(a) “appropriate Government” means—**

(i) in relation to a factory engaged in a controlled industry or in an industry connected with a mine or an oilfield the Central Government, and

(ii) in relation to any other factory the State Government;

**(b) “basic wages” means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—**

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

**(c) “contribution” means a contribution payable in respect of a member under a Scheme;****(d) “controlled industry” means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;****(e) “employer” in relation to a factory means the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (LXIII of 1948), the person so named;****(f) “employee” means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of a factory, and who gets his wages directly or indirectly from the employer, and includes any person employed by or through a contractor in or in connection with the work of the factory;****<sup>3</sup>[ (ff) “exempted employee” means an employee to whom a Scheme would but for the exemption granted under sub-section (1) of section 17, have applied;****(fff) “exempted factory” means a factory in respect of which an exemption has been granted under section 17 from the operation of all or any of the provisions of any Scheme, whether such exemption has been granted to the factory as such or to any person or class of persons employed therein;]****(g) “factory” means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on whether, with the aid of power or without the aid of power;****(h) “Fund” means the provident fund established under a Scheme;****(i) “industry” means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;**

<sup>3</sup> Ins. by s. 3 of Act 37 of 1953.

<sup>3a</sup>[(ia) "manufacture" means making, altering, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;]

(j) "member" means a member of the fund;

(k) "occupier of a factory" means the person who has ultimate control over the affairs of the factory and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(l) "Scheme" means a Scheme framed under this Act.

**3. Power to apply Act to establishment which has a common Provident Fund with a factory.**—Where immediately before this Act becomes applicable to a factory there is in existence a provident fund which is common to the employees employed in a factory to which this Act applies and employees in any other establishment the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act, shall also apply to that establishment, and thereupon the establishment shall be deemed to be a factory for all the purposes of this Act.

**4. Power to add to Schedule I.**—(1) The Central Government may by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

**5. Employees' Provident Fund Schemes.**—<sup>4</sup>[(1)] The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the factories or class of factories to which the said Scheme shall apply <sup>5</sup>[and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme].

<sup>5</sup>[(2) A Scheme framed under sub-section (1) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.]

**6. Contributions and matters which may be provided for in Schemes.**—(1) The Contribution which shall be paid by the employer to the Fund shall be six and a quarter per cent. of the basic wages and the dearness allowance for the time being payable to each of the employees, and the employees' contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires and if the Scheme makes provision therefor, be an amount not exceeding eight and one-third per cent. of his basic wages and dearness allowance:

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

*Explanation.*—For the purposes of this sub-section, dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

<sup>3a</sup> Ins. by s. 3 of Act 37 of 1953.

<sup>4</sup> Renumbered, by s. 4, *ibid.*

<sup>5</sup> Added, *ibid*

(2) Subject to the provisions contained in sub-section (1), any Scheme may provide for all or any of the matters specified in Schedule II.

<sup>6</sup>[(3) Where under the provisions of any Scheme, any board of trustees is constituted for administering the Fund, such board of trustees shall be a body corporate under the name specified in the Scheme, having perpetual succession and a common seal and shall by the said name sue and be sued.]

**7. Modification of Scheme.**—(1) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme framed under this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

<sup>7</sup>**8. Mode of recovery of moneys due from employers.**—An amount due—

- (a) from the employer in relation to a factory to which any Scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme; or
- (b) from the employer in relation to an exempted factory in respect of any damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17;

may, if the amount is in arrear, be recovered by the appropriate Government in the same manner as an arrear of land revenue.]

**9. Fund to be recognised under Act XI of 1922.**—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IXA of that Act:

<sup>8</sup>[Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme (under which the Fund is established) which is repugnant to any of the provisions of that Chapter or the rules made thereunder.]

**10. Protection against attachment.**—(1) The amount standing to the credit of any member in the Fund <sup>9</sup>[or of any exempted employee in a provident fund] shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member, <sup>9</sup>[or the exempted employee] and neither the official assignee appointed under the Presidency-towns Insolvency Act, 1909 (III of 1909), nor any receiver appointed under Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

<sup>10</sup>[(2) Any amount standing to the credit of a member in the Fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the Scheme or the rules of the provident fund shall, subject to any deduction authorised by the said Scheme or rules, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or of the exempted employee.]

<sup>6</sup> Added by s. 5 of Act 37 of 1953.

<sup>7</sup> Subs. by s. 6, *ibid.*

<sup>8</sup> Added by s. 7, *ibid.*

<sup>9</sup> Ins. by s. 8, *ibid.*

<sup>10</sup> Subs., *ibid.*



**11. Priority of payment of contributions over other debts.**—<sup>11</sup>[Where any employer is adjudicated insolvent or, being a company, an order for winding up is made, the amount due—

- (a) from the employer in relation to a factory to which any Scheme applies in respect of any contribution payable to the Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section (2) of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme; or
- (b) from the employer in relation to an exempted factory in respect of any contribution to the provident fund (in so far as it relates to exempted employees), under the rules of the provident fund, damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17,

shall, where the liability therefor has accrued before the order of adjudication or winding up is made, be deemed to be included] among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920) or under section 230 of the Indian Companies Act, 1913 (VII of 1913)<sup>11a</sup> are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

<sup>12</sup>[**12. Employer not to reduce wages, etc.**—No employer in relation to a factory to which any Scheme applies shall, by reason only of his liability for the payment of any contribution to the Fund or any charges under this Act or the Scheme, reduce, whether directly or indirectly, the wages of any employee to whom the Scheme applies or the total quantum of benefits in the nature of old age pension, gratuity or provident fund to which the employee is entitled under the terms of his employment, express or implied.]

**13. Inspectors.**—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act or of any Scheme, and may define their jurisdiction.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any Scheme have been complied with <sup>13</sup>[in respect of a factory to which any Scheme applies or for the purpose of ascertaining whether the provisions of this Act or any Scheme are applicable to any factory to which the Scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 17 are being complied with by the employer in relation to an exempted factory]—

- (a) require an employer to furnish such information as he may consider necessary<sup>14</sup> \* \* \* ;
- (b) at any reasonable time enter any factory or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts books, registers and other

<sup>11</sup> Subs. by s. 9 of Act 37 of 1953.

<sup>11a</sup> See now s. 530 of the Companies Act, 1956 (I of 1956).

<sup>12</sup> Subs. by s. 10 of Act 37 of 1953.

<sup>13</sup> Ins. by s. 11, *ibid.*

<sup>14</sup> The words "in relation to the scheme" were omitted by s. 11, *ibid.*

documents relating to the employment of persons or the payment of wages in the factory;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the factory or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the factory;

(d) make copies of, or take extracts from, any book, register or other documents maintained in relation to the factory;

(e) exercise such other powers as the Scheme may provide.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

**14. Penalties.**—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under any Scheme or of enabling any other person to avoid such payment knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) A Scheme framed under this Act may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

<sup>15</sup>[(2A) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.]

(3) No court shall take cognizance of any offence punishable under this Act or under any Scheme except on a report in writing of the facts constituting such offence made with the previous sanction of such authority as may be specified in this behalf by the appropriate Government, by an Inspector appointed under section 13.

<sup>16</sup>[**14A. Offences by companies.**—(1) If the person committing an offence under this Act or the Scheme made thereunder is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or the Scheme thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

<sup>15</sup> Ins. by s. 12 of Act 37 of 1953.

<sup>16</sup> Ins. by s. 13, *ibid*.

**Explanation.**—For the purposes of this section,—

(a) 'company' means any body corporate and includes a firm and other association of individuals; and

(b) 'director' in relation to a firm, means a partner in the firm.

**14B. Power to recover damages.**—Where an employer makes default in the payment of any contribution to the Fund or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or in the payment of any charges payable under any other provision of this Act or of any Scheme or under any of the conditions specified under section 17, the appropriate Government may recover from the employer such damages, not exceeding twenty-five per cent. of the amount of arrears, as it may think fit to impose.]

**15. Special provisions relating to existing provident funds.**—(1) <sup>17</sup>[Subject to the provisions of section 17, every employee who is a subscriber to any provident fund of a factory to which this Act applies shall, pending the application of a Scheme to] the factory in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed.

(2) <sup>17</sup>[On the application of any Scheme to a factory, the accumulations in any provident fund of the factory standing to the credit of the employees who become members of the Fund established under the Scheme] shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Scheme be transferred to the Fund established under the Scheme, and shall be credited to the accounts of the employees entitled thereto in the Fund.

**16. Act not to apply to factories belonging to Government or local authority and also to infant factories.**—<sup>18</sup>[(1)] This Act shall not apply to—

(a) any factory belonging to the Government or a local authority, and

(b) any other factory, established whether before or after the commencement of this Act, unless three years have elapsed from its establishment.

<sup>19</sup>[**Explanation.**—For the removal of doubts, it is hereby declared that the date of the establishment of a factory shall not be deemed to have been changed merely by reason of a change of the premises of the factory.]

<sup>19</sup>[(2) If the Central Government is of opinion that having regard to the financial position of any class of factories or other circumstances of the case, it is necessary or expedient, so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt that class of factories from the operation of this Act for such period as may be specified in the notification.]

<sup>20</sup>[**17. Power to exempt.**—(1) The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt from the operation of all or any of the provisions of any Scheme—

(a) any factory to which this Act applies if, in the opinion of the appropriate Government, the rules of its provident fund with respect to

<sup>17</sup> Subs. by s. 14 of Act 37 of 1953.

<sup>18</sup> Renumbered by s. 15, *ibid.*

<sup>19</sup> Added, by s. 15, *ibid.*

<sup>20</sup> Subs. by s. 16, *ibid.*

the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Act or any Scheme in relation to the employees in any other factory of a similar character; or

- (b) any factory if the employees of such factory are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other factory of a similar character.

*Explanation.*—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (a), namely:—

- (i) the amount of accumulations in the provident fund shall be invested in such manner as the Central Government may direct;
- (ii) the amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtain re-employment in another factory to which this Act applies, be transferred, within such time as may be specified in this behalf by the Central Government, to the credit of his account in the provident fund of the factory in which he is re-employed or, as the case may be, in the Fund established under the Scheme applicable to the factory.

(2) Any Scheme may make provision for exemption of any person or class of persons employed in any factory to which the Scheme applies from the operation of all or any of the provisions of the Scheme, if such person or class of persons is entitled to benefits in the nature of provident fund, gratuity or old age pension and such benefits, separately or jointly, are on the whole not less favourable than the benefits provided under this Act or the Scheme:

Provided that no such exemption shall be granted in respect of a class of persons unless the appropriate Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

(3) Where any person or class of persons employed in a factory is exempted from the operation of all or any of the provisions of any Scheme under sub-section (2), the employer in relation to such a factory—

- (a) shall, in relation to the provident fund, old age pension and gratuity to which such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct; and
- (b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of old age pension, gratuity or provident fund to which such person or class of persons was entitled at the time of the exemption.]

**18. Protection for acts done in good faith.**—No suit or other legal proceeding shall lie against an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or under any Scheme.

<sup>21</sup>[19. **Delegation of powers.**—The appropriate Government may direct that any power or authority or jurisdiction exercisable by it under this Act or any Scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

- (a) where the appropriate Government is the Central Government by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and
- (b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

**19A. Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, and in particular if any doubt arises as to—

- (i) whether a factory is engaged in any industry specified in Schedule I; or
- (ii) whether fifty or more persons are employed in a factory; or
- (iii) whether three years have elapsed from the establishment of a factory; or
- (iv) whether the total quantum of benefits to which an employee is entitled has been reduced by the employer,

the Central Government may, by order, make such provision or give such direction not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the order of the Central Government, in such cases, shall be final.]

**20. Repeal of Ordinance VIII of 1951.**—(1) The Employees' Provident Funds Ordinance, 1951 (VIII of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

#### SCHEDULE I—[See sections 2(i) and 4]

Any industry engaged in the manufacture<sup>22</sup> \* \* \* of any of the following, namely:—

Cement.

Cigarettes.

Electrical, mechanical or general engineering products.

Iron and steel.

Paper.

Textiles (made wholly or in part of cotton or wool or jute or silk, whether natural or artificial).

<sup>23</sup>[Matches.

Edible oils and fats.

Sugar.

Rubber and rubber products.

<sup>21</sup> Subs. by s. 17 of Act 37 of 1953.

<sup>22</sup> The words "or production" were omitted by s. 18, *ibid.*

<sup>23</sup> Added by the Ministry of Labour Notification No. S.R.O. 1566 dated the 4th July, 1956 with effect from 31st July, 1956, vide Gazette of India, 1956, Part II—Sec. 3, p. 1192.

Electricity including the generation, transmission and distribution thereof.  
Tea.

Printing (other than printing industry relating to newspaper establishments as defined in the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955), including the process of composing types for printing, printing by letter press, lithography, photogravure or other similar process of book-binding.

Glass.

Stone-ware pipes.

Sanitary wares.

Electrical porcelain insulators of high and low tension.

Refractories.

Tiles.]

<sup>24</sup>[*Explanation.*—In this Schedule, without prejudice to the ordinary meaning of the expressions used therein,—

(a) the expression 'Electrical, mechanical or general engineering products' includes—

- (1) machinery and equipment for the generation, transmission, distribution or measurement of electrical energy and motors including cables and wires,
- (2) telephones, telegraph and wireless communication apparatus,
- (3) electric lamps (not including glass bulbs),
- (4) electric fans and electrical domestic appliances,
- (5) storage and dry batteries,
- (6) radio receivers and sound reproducing instruments.
- (7) machinery used in industry (including textile machinery) other than electrical machinery and machine tools,
- (8) boilers and prime movers, including internal combustion engines, marine engines and locomotives,
- (9) machine tools, that is to say, metal and wood working machinery,
- (10) grinding wheels,
- (11) ships,
- (12) automobiles and tractors,
- (13) bolts, nuts and rivets,
- (14) power driven pumps,
- (15) bicycles,
- (16) hurricane lanterns,
- (17) sewing and knitting machines,
- (18) mathematical and scientific instruments,
- (19) products of metal rolling and re-rolling,
- (20) wires, pipes, tubes and fittings,
- (21) ferrous and non-ferrous castings,
- (22) safes, vaults and furniture made of iron or steel or steel alloys,
- (23) cutlery and surgical instruments,
- (24) drums and containers,
- (25) parts and accessories of products specified in items 1 to 24;

(b) the expression 'Iron and Steel' includes pig iron, ingots, blooms, billets and rolled or re-rolled products into basic forms and tool and alloy steel;

(c) the expression 'Paper' includes pulp, paper board and strawboard;

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<sup>24</sup> Added by s. 18 of Act 37 of 1953.

- (d) the expression 'textiles' includes the products of carding, spinning, weaving, finishing and dyeing yarn and fabrics, printing, knitting and embroidering.]

## SCHEDULE II—[See section 6(2)]

### *Matters for which provision may be made in a Scheme*

1. The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.
2. The time and manner in which contributions shall be made to the Fund by employers and by, or on behalf of, employees, the contributions which an employee may, if he so desires, make under sub-section (1) of section 6, and the manner in which such contributions may be recovered.
3. The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made.
4. The constitution of boards of trustees for the administration of Funds each of which shall consist of—
  - (a) nominees of the Central Government;
  - (b) nominees of such State Governments as the Central Government may, having regard to the jurisdiction of the board, specify in this behalf;
  - (c) representatives of the employers and employees concerned, nominated by the Central Government after consultation with the employers and employees concerned or with such of their respective organisations as are representative of their interests, provided that the number of representatives of the employees shall in no case be less than the number of representatives of the employers.
5. The number of trustees on any board, the terms and conditions subject to which they may be nominated, the time, place and procedure of meetings of the board, the appointment of officers and other employees of the board, and the opening of regional and other offices.
6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or, conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government or to any specified State Government.
7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
8. The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.
9. The form in which an employee shall furnish particulars about himself and his family whenever required.
10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.
11. The registers and records to be maintained with respect to employees and the returns to be furnished by employers.
12. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.

13. The fees to be levied for any of the purposes specified in this Schedule.
14. The contraventions or defaults which shall be punishable under sub-section (2) of section 14.
15. The further powers, if any, which may be exercised by inspectors.
16. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 15, and the mode of valuation of any assets which may be transferred by the employers in this behalf.
17. The conditions under which a member may be permitted to pay premia on life insurance, from the Fund.
18. Any other matter which may be necessary or proper for the purpose of implementing the Scheme.

## EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

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FORMS.

**EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952<sup>1</sup>**

In exercise of the powers conferred by section 5 of the Employees' Provident Funds Act, 1952 (XIX of 1952), the Central Government hereby frames the following Employees' Provident Funds Scheme, 1952, namely:—

<sup>1</sup> This Scheme was published under the Ministry of Labour Notification No. S.R.O. 1509 dated the 2nd September, 1952 in Gazette of India Extraordinary, 1952, Part II—Section 3, pages 807-831.

# EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

## CHAPTER I—PRELIMINARY

1. **Short title and application.**—(1) This Scheme may be called the Employees' Provident Funds Scheme, 1952.

(2) <sup>2</sup>[Save as otherwise provided in the Scheme, this Chapter] and Chapters II and III shall come into force at once and the remaining provisions shall come into force on such date or dates<sup>3</sup> as the Central Government may by notification in the Official Gazette appoint and different dates may be appointed for different provisions.

<sup>4</sup>[(3) (a) Subject to the provisions of sections 16 and 17 of the Act, this Scheme shall apply to all factories to which the Act applies or is applied under sub-section (3) of section 1 or section 3 thereof.]

<sup>4a</sup>[Provided that the provisions of this Scheme shall not apply to:

(i) match factories having annual production of five lakhs gross boxes of matches or less

(ii) such glass factories, other than sheet glass and glass shell factories, as have an installed capacity of 600 tons per month or less;

(iii) tea factories in the State of Assam.]

<sup>4b</sup>[(b) Provisions of this Scheme shall:

(1) as respects factories relating to the industries added to Schedule 1 of the Act, by notification of the Government of India in the Ministry of Labour No. S.R.O. 1566 dated the 4th July, 1956 come into force on the 31st day of July, 1956.

(2) as respects factories relating to other industries be deemed to have come into force with effect from the 2nd day of September, 1952.]

2. **Definitions.**—In this Scheme, unless the context otherwise requires:—

(a) "Act" means the Employees' Provident Funds Act, 1952 (XIX of 1952);

(b) "Board" means a Board of Trustees constituted under this Scheme;

(c) "children" means legitimate children and includes adopted children if the Commissioner is satisfied that under the personal law of the member adoption of a child is legally recognized;

(d) "Commissioner" means a Commissioner for Employees' Provident Fund appointed under this Scheme;

(e) "continuous service" means uninterrupted service and includes service which is interrupted by sickness, accident, authorised leave, strike which is not illegal, or cessation of work not due to the employee's fault;

(f) "excluded employee" means—

(i) an employee who, having been a member of the Fund once, withdrew the full amount of his accumulation in the Fund on retirement after attaining the age of 55 years or on retirement due to total incapacity caused by bodily or mental infirmity;

(ii) an employee whose basic wages at the time he is otherwise entitled to become a member of the Fund, exceed three hundred rupees per month;

(iii) an employee employed by \* \* \* a contractor;

<sup>2</sup>Subs. for the words "The Chapter" by the Ministry of Labour Notification No. S.R.O. 2035 dated the 28th October, 1953.

<sup>3</sup>Paragraphs 26, 27, 28, 33, 36(1) and 37 have come into force on the 6th October, 1952, vide Notification No. S.R.O. 1728 dated 8th Oct., 1952, in Gazette of India, 1952, Part II—Sec. 3, p. 1548 and Chapters V, VI (paragraphs 34, 35, 36(2), (3), (4) and (5), 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48), VII, VIII and IX have come into force on the 1st November, 1952, vide Notification No. S.R.O. 1860 dated the 31st October, 1952, in Gazette of India, 1952, Part II—Sec. 3, p. 1663.

<sup>4</sup>Inserted by Notification No. S.R.O. 2035 dated 28th October, 1953.

<sup>4a</sup>Added by Notification No. S.R.O. 1567 dated the 4th July, 1956.

<sup>4b</sup>Substituted, *ibid*.

<sup>5</sup>The words "or through" omitted by Notification No. S.R.O. 501 dated 4th Mar., 1953.

<sup>6</sup>[*Explanation*.—An employee who gets his wages directly or indirectly from an employer and in respect of whom the employer retains control in the matter of discharge, dismissal and the re-instatement, shall not be deemed to have been employed by a contractor.]

(iv) \* \* \*

(v) an employee who by virtue of any notification issued under section 17 of the Act is exempted from the operation of this Scheme; or

(vi) a person who has been employed in a factory to which this Scheme applies for not less than ten years and who by a declaration in writing has opted for the benefits to which he was entitled before the date of a notification issued under clause (b) of Section 17 of the Act.

(g) "family" means—

(i) in the case of a male member, the wife, children whether married or unmarried, and dependent parents of the member, and the widow and children of a deceased son of the member:

Provided that if a member proves that his wife has ceased, under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance she shall no longer be deemed to be a part of the member's family for the purpose of this Scheme, unless the member subsequently intimates by express notice in writing to the Commissioner that she shall continue to be so regarded; and

(ii) in the case of a female member, the husband and children of the member, the dependent parents of the member or of the husband, and the widow and children of a deceased son of the member:

Provided that if a member by notice in writing to the Commissioner expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of the member's family for the purpose of this Scheme, unless the member subsequently cancels in writing any such notice.

*Explanation*.—In either of the above two cases, if the child of a member has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised such a child shall be considered as excluded from the family of the member;

(h) "financial year" means the year commencing on the first day of April;

(i) "Government Security" shall have the meaning assigned to it in the Public Debts Act, 1944 (XVIII of 1944);

(j) "Inspector" means a person appointed as such under Section 13 of the Act;

(k) "quarter" means a period of three months commencing on the first day of January, the first day of April, the first day of July and the first day of October of each year;

<sup>7</sup>[(kk) "Seasonal factory" means a factory which is exclusively engaged in the manufacture of tea, sugar or rubber.]

(l) "Trustee" means a member of a Board of Trustees; and

(m) all other words and expressions shall have the meanings respectively assigned to them in the Act.

## CHAPTER II—BOARD OF TRUSTEES

**3. Board of Trustees.**—(1) Subject to the provisions hereinafter contained, the Fund shall vest in and be administered by a Board of Trustees (hereinafter referred to as the 'Central Board') consisting of the following persons, namely:—

(a) a Chairman nominated by the Central Government;

(b) three persons nominated by the Central Government;

(c) nominees of such State Governments as the Central Government may having regard to the jurisdiction of the Board, specify in this behalf;

(d) six persons representing employers in the industries to which this scheme applies nominated by the Central Government in consultation with the representatives of such organisations of employers as may be recognised by the Central Government for the purpose; and

(e) six persons representing employees in the industries to which this scheme applies nominated by the Central Government in consultation with such organisations of employees as may be recognised by the Central Government for the purpose.

<sup>6</sup> This Explanation was inserted by Notification No. S.R.O. 501 dated 4th March, 1953.

<sup>7</sup> Sub-clause (iv) deleted by Notification No. S.R.O. 2035 dated 28th October, 1953.

<sup>7a</sup> Ins. by Notification No. S.R.O. 1660 dated the 21st July, 1956.

(2) The Central Government may, in consultation with the State Government, constitute for any State a Board of Trustees (hereinafter referred to as the 'State Board') consisting of the following persons, namely:—

- (a) a Chairman nominated by the Central Government in consultation with the State Government;
- (b) two persons nominated by the Central Government;
- (c) two persons nominated by the State Government;
- (d) four persons representing employers in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employers in the State as may be recognised for the purpose by the Central Government; and
- (e) four persons representing employees in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employees in the State as may be recognised for the purpose by the Central Government.

(3) Where a Board of Trustees is constituted for any State, the Central Board shall, as soon as may be, transfer to it the amount standing to the credit of the Fund of all the employees in the State and such amount shall thereafter constitute a separate Provident Fund for that State which shall vest in and be administered by the State Board and to which shall, in future, be credited all the amounts received in accordance with the provisions of this Scheme in respect of the employees in that State.

**4. Regional Committee.**—(1) Until such time as a State Board is constituted for a State, the Central Government may set up a Regional Committee for the State, which will function under the control of the Central Board. The Regional Committee shall consist of the following persons, namely:—

- (a) a Chairman nominated by the Central Government;
- (b) two persons nominated by the Central Government on the recommendation of the State Government;
- (c) three persons representing employers in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employers in the State as may be recognised for the purpose by the Central Government;\*
- (d) three persons representing employees in the industries to which this scheme applies in the State nominated by the Central Government in consultation with such organisations of employees in the State as may be recognised for the purpose by the Central Government;† [and
- (e) the non-official members of the Central Board ordinarily resident in the State.]

(2) A Regional Committee shall advise the Central Board on such matters as the Central Board may refer to it.

(3) As soon as a State Board is constituted for any State, the Regional Committee constituted for that State under this paragraph shall stand dissolved.

**5. Terms of office.**—(1) The Chairman of the Central and a State Board and that of a Regional Committee, and every Trustee of the Central and a State Board referred to in clauses (b) and (c) of sub-paragraphs (1) and (2), respectively, of paragraph 3 and every member of a Regional Committee shall hold office during the pleasure of the Central Government:

Provided that where the Central Government directs that a trustee nominated by a State Government shall cease to hold office, the State Government shall be consulted.

(2) The term of office of the trustees of the Central Board and a State Board referred to in clauses (d) and (e) of sub-paragraphs (1) and (2), respectively, of paragraph 3 shall be five years commencing from the date on which their nomination is notified in the Official Gazette:

Provided that any such trustee shall, notwithstanding the expiry of the said period of five years, continue to hold office until the nomination of his successor is notified in the Official Gazette.

\* The word "and" deleted by Notification No. S.R.O. 502 dated the 4th March, 1953.

† Inserted, *ibid.*

(3) Any trustee referred to in sub-paragraph (2) nominated to fill a casual vacancy shall hold office for the remainder of the term of office of the trustee in whose place he is nominated.

(4) An outgoing trustee shall be eligible for re-nomination.

**6. Resignation.**—(1) A trustee of the Central Board and a member of a Regional Committee may resign his office by letter in writing addressed to the Central Government and his office shall fall vacant from the date on which his resignation is accepted by the Central Government.

(2) A trustee of a State Board may resign his office by letter in writing addressed to the State Government and his office shall fall vacant from the date on which his resignation is accepted by the State Government.

**7. Cessation and restoration of trusteeship.**—If a trustee or a member of a Regional Committee fails to attend three consecutive meetings of the Board or Committee, as the case may be, without obtaining leave of absence from the Chairman of the Board or Committee, he shall cease to be a trustee or member of the Committee:

Provided that the Central Government in the case of the Central Board and any Regional Committee and the State Government in the case of a State Board may restore him to trusteeship or membership of the Regional Committee, as the case may be, if it is satisfied that there were reasonable grounds for the absence.

**8. Disqualifications for trusteeship or membership of Regional Committee.**—(1) A person shall be disqualified for being nominated as, or for being a trustee or member of a Regional Committee:—

- (i) if he is declared to be of unsound mind by a competent court; or
- (ii) if he is an undischarged insolvent; or
- (iii) if before or after the commencement of the Act he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether any person is disqualified under sub-paragraph (1), it shall be referred—

- (a) to the Central Government if the disqualification relates to a membership of the Central Board or a Regional Committee;
- (b) to the State Government if the disqualification relates to membership of a State Board,

and the decision of the Central Government, or as the case may be, of the State Government on any such question shall be final.

**9. Removal from Trusteeship or membership of a Regional Committee.**—The Central Government may remove from office any trustee of the Central Board or member of a Regional Committee and the State Government may remove from office any trustee of a State Board if in its opinion such trustee or member of a Committee has ceased to represent the interest which he purports to represent on the Board or Committee, as the case may be:

Provided that no such trustee or member shall be removed unless a reasonable opportunity is given to such trustee or member and the body whom he represents, of making any representation against the proposed action.

**10. Absence from India.**—(1) Before a non-official trustee or a member of a Regional Committee leaves India:—

- (a) he shall intimate to the Chairman of the Board or of the Committee, as the case may be, of the dates of his departure from and expected return to India, or
- (b) if he intends to absent himself for a period longer than six months, he shall tender his resignation.

(2) If any trustee or a member of a Regional Committee leaves India for a period of six months or more without intimation to the Chairman of the Board or of the Regional Committee, as the case may be, he shall be deemed to have resigned from the Board or the Committee.

**11. Meetings.**—(1) A Board of Trustees or a Regional Committee shall, subject to the provisions of paragraph 12, meet at such place and time as may be appointed by the Chairman.

(2) The Chairman, may whenever he thinks fit, and shall within fifteen days of the receipt of a requisition in writing from not less than one-third of the members in the case of the Board and not less than three members excluding the Chairman in the case of a Committee, call a meeting thereof.

**12. Notice of meeting and list of business.**—Notice of not less than 15 days from the date of posting, containing the date, time and place of every ordinary meeting together with a list of business to be conducted at the meeting, shall be despatched by registered post or by special messenger to each trustee or a member of the Regional Committee, as the case may be, present in India:

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice giving such reasonable time as he may consider necessary, shall be deemed sufficient.

**13. Chairman to preside at meetings.**—The Chairman of a Board or a Regional Committee shall preside at every meeting of the Board or the Regional Committee, as the case may be, at which he is present. If the Chairman is absent at any time, the trustees or members present shall elect one of their members to preside over the meeting and the trustee or member so elected shall exercise all the powers of the Chairman at the meeting.

**14. Quorum.**—(1) No business shall be transacted at a meeting of a Board or a Regional Committee unless at least four trustees or members of the Regional Committee are present, of whom:—

- (a) in the case of the Central Board, at least one shall be from among those nominated under clause (d) and at least one from among those nominated under clause (e) of sub-paragraph (1) of paragraph 3;
- (b) in the case of a State Board, at least one shall be from among those nominated under clause (d) and at least one from among those nominated under clause (c) of sub-paragraph (2) of paragraph 3; and
- (c) in the case of a Regional Committee, at least one shall be from among those nominated under clause (c) and at least one from among those nominated under clause (d) of sub-paragraph (1) of paragraph 4.

(2) If at any meeting the number of trustees or members of a Regional Committee is less than the required quorum, the Chairman shall adjourn the meeting to a date not later than seven days from the date of the original meeting informing the trustees or members of the Regional Committee, as the case may be, of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of trustees or members of the Regional Committee present.

**15. Disposal of business.**—Every question considered at a meeting of a Board or a Regional Committee shall be decided by a majority of the votes of the trustees or members of the Regional Committee present and voting. In the event of an equality of votes the Chairman shall exercise a casting vote:

Provided that the Chairman may, if he thinks fit, direct that any question shall be decided by the circulation of necessary papers to trustees or members of a Regional Committee present in India and by securing their opinions in writing. Any such question shall be decided in accordance with the opinion of the majority of trustees or members received within the time limit allowed and if the opinions are equally divided, the opinion of the Chairman shall prevail;

Provided further that any trustee or member of a Regional Committee may request that the question referred to trustees or members of a Regional Committee, as the case may be, for written opinion be considered at a meeting of the Board or a Regional Committee and thereupon the Chairman may, and if the request is made by not less than three trustees or members of a Regional Committee, shall direct that it be so considered.

**16. Minutes of meetings.**—(1) The minutes of a meeting of a Board or a Regional Committee showing *inter alia* the names of the trustees or members of the Regional Committee present thereat shall be circulated to all trustees or members of the Regional Committee present in India not later than one month from the date of the meeting. The minutes shall thereafter be recorded in a minute book as a permanent record:

Provided that if another meeting is held within a period of one month and ten days, the minutes shall be circulated so as to reach the trustees or members at least ten days before such meeting.

(2) The records of the minutes of each meeting shall be signed by the Chairman after confirmation with such modifications, if any, as may be considered necessary at the next meeting.

**17. Acts of a Board or a Regional Committee not invalid by reason of defect in its constitution, etc.**—No act or proceeding of a Board or a Regional Committee shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Board or the Regional Committee, as the case may be.

**18. Fees and allowances.**—(1) The travelling allowance of an official trustee or official member of a Regional Committee shall be governed by the rules applicable to him for journeys performed on official duties and shall be paid by the authority paying his salary.

(2) Every non-official trustee or non-official member of a Regional Committee shall be paid a daily allowance at the maximum rate admissible to the officers of the first grade in the service of the Central or the State Government, as the case may be, for each day on which he attends a meeting of the Board or a Regional Committee, as the case may be, and travelling allowance at  $1\frac{1}{2}$  railway fares of the highest class from and to his usual place of business or from and to the place the journey is actually performed whichever is less, plus road mileage at annas eight per mile for the journey not covered by railway.

*Explanation.*—(I) No daily or travelling allowance in respect of any day or journey, as the case may be, shall be claimed under this paragraph by a trustee or member of a Regional Committee if he has drawn or will draw allowance for the same from his employer or as a member of any Legislature or of any Committee or Conference constituted or convened by Government and no travelling allowance shall be claimed if he uses a means of transport provided at the expense of Government or his employer.

*Explanation* —(II) Where the journey is performed by road between places connected by railway, road mileage shall be paid only if the trustee or member of the Regional Committee certifies that the journey was undertaken by road to avoid loss of time which the journey by railway would have entailed and the distance travelled does not exceed 75 miles in a single journey.

### CHAPTER III—APPOINTMENT AND POWERS OF COMMISSIONER AND OTHER STAFF OF BOARD OF TRUSTEES

**19. Provident Fund Commissioners.**—(1) The Central Government shall appoint a Commissioner who shall be the Chief Executive Officer of the Central Board and shall be subject to its general control and superintendence.

(2) When a State Board is constituted, the State Government shall appoint a Commissioner who shall be the Chief Executive Officer of the State Board and shall be subject to its general control and superintendence.

(3) A Commissioner shall not undertake any work unconnected with his office without the previous sanction of the Central Government or the State Government, as the case may be.

(4) A Commissioner appointed under this paragraph may at any time for reasons to be recorded in writing and after he is given an opportunity of being heard, be removed by the Central Government or the State Government, as the case may be.

(5) A Commissioner shall receive such salary and allowances and shall be subject to such conditions of service as may be specified in this behalf from time to time by the Central Government or the State Government, as the case may be.

(6) A Commissioner while attending the meetings of a Board may take part in its deliberations but shall not be entitled to vote.

**20. Regional Commissioner.**—Until the appointment of a State Commissioner, the Central Government may appoint a Regional Commissioner for any State to work under the general control and superintendence of the Central Commissioner.

**21. Opening of regional and other offices.**—A Board may, with the approval of the Government concerned, employ such staff and open such regional and local offices within the area of its jurisdiction as it may consider desirable for the proper implementation of the Scheme. It may also define the functions and duties of the regional and local offices.

**22. Secretary of a Board or a Regional Committee.**—(1) The Central Government shall appoint a Secretary to the Central Board and a Secretary to a Regional Committee and the State Government shall appoint a Secretary to the State Board if and when it is constituted.

(2) The Secretary to a Board or a Regional Committee, shall, in consultation with the Chairman, convene meetings of the Board or Regional Committee, as the case may be, keep a record of its minutes and shall take the necessary steps for carrying out the decisions of the Board or the Regional Committee as the case may be.

**23. Staff.**—(1) The Central Commissioner and a State Commissioner may employ such staff as the Chairman of the Central Board or a State Board, as the case may be, may consider necessary for the efficient administration of the Scheme:

Provided that the sanction of the Government concerned shall be obtained for the creation of a post with a maximum salary of Rs. 500 or above if the duration of the post is likely to exceed six months:

Provided further that the appointment to a post carrying an initial monthly salary of Rs. 275 or above shall be made by the Government concerned in consultation with the Union Public Service Commission or the State Public Service Commission, as the case may be:

Provided further that references relating to all appointments made under this sub-paragraph shall be placed before the next meeting of the Central or State Board or the Regional Committee, as the case may be, for information.

(2) Subject to the provisions of this paragraph regulations regarding the method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff shall be laid down by the Central Board or the State Board, as the case may be, with the approval of the Government concerned:

Provided that the scale of pay and allowances of the members of the staff shall generally be in accordance with the scales sanctioned by the Government concerned for similar posts under its control.

**24. Power of Commissioner to sanction expenditure.**—A Commissioner may, without reference to the Board, sanction expenditure on contingencies, supplies and services and purchase of articles required for administering the Fund subject to financial provision in the budget and subject to the condition that the expenditure on any single item does not exceed Rs. 200.

**25. Powers of the Central Government until the Central Board is constituted.**—Until the Central Board is constituted, the Central Government shall administer the Fund and may exercise any of the powers and discharge any of the functions of the Board:

Provided that on the constitution of the Central Board, the Central Government shall transfer amounts standing to the credit of the Fund to the Central Board.

#### CHAPTER IV—EMPLOYEES REQUIRED TO JOIN THE PROVIDENT FUND

**26. Class of employees required to join the Fund.**—(1) Every employee, employed in a factory to which this Scheme applies, other than an excluded employee, shall be required to become a member of the Fund from the date on which the Scheme comes into force if he has on that date completed one year's continuous service in the factory concerned. Every employee, other than an excluded employee, taking up employment, whether before or after the commencement of the Scheme, in a factory to which this Scheme applies, shall also become a member from the beginning of the month following that in which he completes one year's continuous service in the factory:

<sup>10</sup>[Provided that an employee who, during a period of twelve months, has actually worked in the factory for not less than 240 days shall be deemed to have completed one year's continuous service in the factory concerned.]

<sup>10a</sup>[Provided further that, subject to a maximum of 240 days in respect of a seasonal factory, an employee who, during the period a seasonal factory was in operation in a year, has actually worked in the factory for not less than 2/3rd of the period the factory was in operation in that year, shall be deemed to have completed one year's continuous service in the factory]

Provided <sup>11</sup>[further] that an employee who is a member of the Fund shall not cease to be a member thereof on his leaving a factory to which the Scheme applies except as provided in paragraph 27.

<sup>12</sup>[Explanation.—For the purpose of the <sup>12a</sup>[first two provisos]—

(a) any days of agreed lay-off, that is to say involuntary unemployment caused by stoppage of work due to shortage of raw materials, fuel, changes in the line of production, breakdown of machinery and any other similar cause;

(b) in the case of a female employee maternity leave for any number of days not exceeding twelve weeks, shall be deemed to be days on which the employee has worked in the factory.]

<sup>10</sup> Inserted by Notification No. S.R.O. 2008 dated the 26th November, 1952.

<sup>10a</sup> Added by Not. No. S.R.O. 1660 dated the 21st July, 1956, w.e.f. 31-7-56.

<sup>11</sup> Inserted by Notification No. S.R.O. 2008 dated the 26th November, 1952.

<sup>12</sup> Inserted, *ibid*.

<sup>12a</sup> Subs. by Notification No. S.R.O. 1660 dated 21st July, 1956 for "first proviso."



(2) An employee whose monthly basic wages exceed three hundred rupees after he has become a member of the Fund shall be required to continue his membership. His contribution will, however, be restricted to the maximum of one anna in the rupee on three hundred rupees and the dearness allowance admissible on this amount. This contribution shall continue to be payable by him and in respect of him by the employer.

<sup>13</sup>[(3) If any question arises whether an employee is required to become or continue as a member of the Fund or as regards the date from which he is so required to become a member, the decision thereon of the Regional Commissioner or when State Commissioners are appointed, that of the State Commissioner shall be final.]

**27. Election for continuance of membership of certain other Provident Funds.**—Notwithstanding, anything to the contrary contained in paragraph 26, a subscriber, other than an excluded employee, to a Provident Fund recognised under the Indian Income-tax Act, 1922 (XI of 1922), or to which the Provident Fund Act, 1925 (XIX of 1925), applies shall become a member of the Fund unless he elects, by an application in Form 1 <sup>14</sup>[sent to the Commission—

(a) in the case of a subscriber to whom this Scheme applied on or before the 6th January, 1953, not later than the 6th April, 1953,

(b) in the case of a subscriber to whom this Scheme applies at any time after the 6th January, 1953, within three months of the date on which the Scheme becomes applicable to him, to continue to subscribe to such Provident Fund and in that case he shall not be required or be entitled to become a member of the Fund.]

<sup>15</sup>[Provided that the Commissioner may for reasons to be recorded in writing, entertain any such application after the expiry of the period specified in this paragraph.]

Provided <sup>16</sup>[further] that the above option to continue to subscribe to an existing Provident Fund shall be allowed to an employee in a factory only if its Provident Fund Rules with respect to contributions are in conformity with, or are more favourable to employees than those specified in the Act or the Scheme.

*Explanation.*—In this paragraph, 'existing Provident Fund' includes a Provident Fund established in pursuance of an award under the Industrial Disputes Act, 1947, or a collective agreement between workers and employers.

<sup>17</sup>[**27A. Exemption of a class of employees.**—(1) A Commissioner may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme any class of employees to whom the Scheme applies:

Provided that such class of employees is entitled to benefits in the nature of provident fund, gratuity or old age pension according to the rules of the factory and such benefits separately or jointly are on the whole not less favourable than the benefits provided under the Act and this Scheme.

(2) Where any class of employees is exempted as aforesaid, the employer shall in respect of such class of employees maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

(3) A class of employees exempted under sub-paragraph (1) or the majority of employees constituting such class may by an application to the Commissioner make a declaration that the class desires to join the fund and thereupon such class of the employees shall become members of the fund.

(4) No class of employees shall be granted exemption or permitted to apply out of exemption more than once on each account.

(5) The provisions of this paragraph shall be deemed to have come into force with effect from 14th October, 1953.]

**28. Transfer of accumulations from existing Provident Funds.**—(1) Every authority in charge of, or entrusted with the management of, any Provident Fund in existence on the 15th day of November, 1951, the accumulations where are to be transferred to the

<sup>13</sup> This sub-paragraph inserted by Noti. No. S.R.O. 2008 dated 26th Nov., 1952.

<sup>14</sup> Substituted by Notification No. S.R.O. 449 dated the 23rd February, 1953.

<sup>15</sup> The Proviso, was added, *ibid.*

<sup>16</sup> The word "further" inserted, *ibid.*

<sup>17</sup> Inserted by Notification No. S.R.O. 2035 dated the 28th October, 1953.

Fund under sub-section (2) of section 15 of the Act, shall, before the 1st day of January, 1953, or such later date as the Board may fix in this behalf—

(i) send to the appropriate Commissioner a statement showing the amount standing to the credit of each subscriber on the date of the transfer, the total accumulations to the credit of subscribers generally on that date and the advances, if any, taken by the subscribers.

(ii) transfer to the Fund in the manner specified in sub-paragraph (2) the total accumulations standing to the credit of the subscribers in relation to each factory, and

(iii) transfer to the Board all pass-books, books of account and other documents relating to the said accumulations.

(2) All accumulations standing to the credit of the subscribers, howsoever invested, shall be transferred to the Fund by the authority aforesaid in cash:

Provided that where the whole or any part of such accumulations <sup>18</sup>[were before the 2nd September, 1952 invested] in Government securities it shall be open to the authority making the transfer to have the Government securities transferred as such to the Board at their face value or to transfer to the Board a sum equivalent to the face value of the securities.

(3) Any cash transferred under sub-paragraph (2) shall be deposited in any office or branch of the Reserve Bank of India or the Imperial Bank of India to the credit of the Board, and the receipt obtained in respect thereof shall be forwarded to the appropriate Commissioner:

Provided that where there is no office or branch of either of the two Banks at the place where the factory is situated the amount shall be credited to the Board by means of a Reserve Bank of India <sup>19</sup>[Government Draft at par.]

(4) The accumulations transferred to the Fund in accordance with this paragraph shall be credited to the account of each of the members of the Fund, to the extent to which he may be entitled thereto having regard to the statement furnished by the authority aforesaid.

(5) When the accumulations in any such Provident Fund as is referred to in sub-paragraph (1) have been so transferred to the Fund, the appropriate Commissioner may, by notification in the Gazette of India, declare that the subscribers of such Provident Fund have now become members of the Fund and that the accumulations aforesaid have now become vested in the Board.

#### CHAPTER V—CONTRIBUTIONS

**29. Contributions.**—(1) The contributions payable by the employer under the Scheme shall be at the rate of one anna in the rupee of the basic wages and the dearness allowance payable to each employee to whom the Scheme applies.

(2) The contribution payable by the employee under the Scheme shall be equal to the contribution payable by the employer in respect of such employee.

(3) The contributions shall be calculated on the basis of wages and dearness allowance actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis.

(4) Each contribution shall be calculated to the nearest quarter of a rupee, two annas or more to be counted as the next higher quarter of a rupee.

<sup>19a</sup>[*Explanation.*—In respect of a seasonal factory the amount paid to an employee as retainers' allowance during the off-season, when the factory is not in operation, shall be deemed to be wages for the purposes of this Scheme and be taken into account for calculating the contributions.]

**30. Payment of contributions.**—The employer shall, in the first instance pay both the contribution payable by himself (in this Scheme referred to as the employer's contribution) and also, on behalf of the member employed by him, the contribution payable by the member (in this Scheme referred to as the member's contribution).

**31. Employer's share not to be deducted from the members.**—Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wages of a member or otherwise to recover it from him.

<sup>18</sup> Substituted by Notification No. S.R.O. 1899 dated the 10th November, 1952.

<sup>19</sup> Substituted by Notification No. S.R.O. 270 dated the 28th January, 1953.

<sup>19a</sup> Added by Not. No. S.R.O. 1660 dated the 21st July, 1956, w.e.f. 31-7-56.

**32. Recovery of a member's share of contribution.**—(1) The amount of a member's contribution paid by the employer shall, notwithstanding the provisions in this Scheme or any law for the time being in force or any contract to the contrary be recoverable by means of deduction from the wages of the member and not otherwise:

Provided that no such deduction may be made from any wage other than that which is paid in respect of the period or part of the period in respect of which the contribution is payable:

Provided further that the employer shall be entitled to recover the employee's share from a wage other than that which is paid in respect of the period for which the contribution has been paid or is payable where the employee has in writing given a false declaration at the time of joining service with the said employer that he was not already a member of the Fund:

Provided further that where no such deduction has been made on account of an accidental mistake or a clerical error, such deduction may, with the consent in writing of the Inspector, be made from the <sup>20</sup>[subsequent] wages.

(2) Deduction made from the wages of a member paid on daily, weekly or fortnightly basis should be totalled up to indicate the monthly deductions.

(3) Any sum deducted by an employer from the wages of an employee under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted

#### CHAPTER VI—DECLARATION, CONTRIBUTION CARDS AND RETURNS

**33. Declaration by persons already employed at the time of institution of the Fund.**—Every person who is required or entitled to become a member of the Fund shall be asked forthwith by his employer to furnish and shall, on such demand furnish to him, for communication to the Commissioner, particulars concerning himself and his nominee required for the declaration form in Form 2. Such employer shall enter the particulars in the declaration form and obtain the signature or thumb impression of the person concerned.

**34. Declaration by persons taking up employment after the Fund has been established.**—The employer in relation to a factory shall, before taking any person into employment, ask him to state in writing whether or not he is a member of the Fund and if he is, ask for the Account Number and/or the name and particulars of the last employer. If he is unable to furnish the Account Number, he shall, require such person to furnish and such person shall, on demand, furnish to him for communication to the Commissioner, particulars regarding himself and his nominee required for the Declaration Form. Such employer shall enter the particulars in the Declaration Form and obtain the signature or thumb impression of the person concerned.

**35. Preparation of contribution cards.**—The employer shall prepare a contribution card in Form 3 or 4, as may be appropriate, in respect of every employee in his employment at the commencement of the Scheme or who is taken into employment after that date and who is required or entitled to become or is a member of the Fund including those who produce an Account Number and in respect of whom no fresh Declaration Form is prepared.

**36. Duties of employers.**—(1) Every employer shall send to the Commissioner, within fifteen days of the commencement of this Scheme, a consolidated return in such form as the Commissioner may specify, in duplicate, of the employees required or entitled to become members of the Fund showing the basic wage and dearness allowance including the cash value of any food concession paid to each of such employees

(2) Every employer shall send to the Commissioner within fifteen days of the close of each month a return—

(a) in duplicate, in Form 5, of the employees qualifying to become members of the Fund for the first time during the preceding month together with the declarations in Form 2 furnished by such qualifying employees and with a statement showing the basic wages and dearness allowance including the cash value of any food concession of each such employee, and

(b) in duplicate, in such form as the Commissioner may specify, of the employees leaving service of the employer during the preceding month.

(3) Every employer shall send to the Commissioner within fifteen days of the commencement of every half year, beginning from 1st April and 1st October, a consolidated return in duplicate to replace the one furnished under sub-paragraph (1) above.

<sup>20</sup> Substituted by Notification No. S.R.O. 500 dated 2nd March, 1953 for "previous."

(4) Every employer shall maintain such accounts in relation to the amounts contributed to the Fund by him and by his employees as the Board may, from time to time, direct, and it shall be the duty of every employer to assist the Board in making such payments from the Fund to his employees as are sanctioned by or under the authority of the Board.

(5) Notwithstanding anything hereinbefore contained in this paragraph, the Board may issue such directions to employers generally as it may consider necessary or proper for the purpose of implementing the Scheme, and it shall be the duty of every employer to carry out such directions.

**37. Allotment of account numbers.**—On receipt of the information referred to in paragraphs 33, 34 and 36, the Commissioner shall promptly allot an Account Number to each employee qualifying to become a member and shall communicate the Account Number to the member through the employer.

**38. Mode of payment of contributions.**—(1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage of the total employer's and employees' contributions as may be fixed by the Central Government, he shall within fifteen days of the close of every month pay to the Fund by separate Bank drafts or cheques on account of contributions and administrative charge:

Provided that if payment is made by a cheque on an outstation bank, collection charges in respect of both the contributions and the administrative charge at such rate as the Board may determine in this behalf shall be included in the amount for which the cheque is drawn in respect of the administrative charge:

Provided further that where there is no branch of the Reserve Bank or the Imperial Bank of India at the station where the factory is situated, the employer shall pay to the Fund the amount mentioned above by means of Reserve Bank of India <sup>21</sup>[Government Drafts at par] separately on account of contributions and administrative charge.

(2) The employer shall forward to the Commissioner, within fifteen days of the close of the month, a monthly consolidated statement, in such form as the Commissioner may specify, showing recoveries made from the wages of each employee and the amount contributed by the employer in respect of each such employee.

**39. Fixation of administrative charges.**—The Central Government may, in consultation with the Central Board and having regard to the resources of the Fund available for meeting its normal administrative expenses, fix the percentage of administrative charges<sup>22</sup> payable under sub-paragraph (1) of paragraph 38 above.

**40. Contributions to be entered in the contribution card.**—The amount recovered every month from the wages of an employee as well as the contribution made by the employer in respect of each such employee shall be entered by the employer every month in the contribution card opened in the name of each member under this Scheme.

**41. Currency of contribution cards.**—The contribution cards issued under this Scheme shall be current for one year.

Provided that the said period of one year may commence and terminate at such different times in different factories as may be decided by the Commissioner from time to time:

Provided further that the cards issued in respect of the first contribution period may be for a period which may be less or more than a year.

**42. Renewal of contribution cards.**—An employer shall, on or before the expiration of the period of currency of the contribution card, prepare in respect of each member employed by him a card in Form 3 or 4 as may be appropriate, for the next period of currency.

**43. Submission of contribution cards to the Commissioner.**—Every employer shall within one month from the date of expiration of the period of currency of the contribution cards in respect of members employed by him, send the contribution cards to the Commissioner together with a statement in Form 6.

**44. Custody of contribution cards.**—The employer shall retain in his custody the contribution cards in respect of each member employed by him and shall take every precaution against loss or damage of the contribution cards

<sup>21</sup> Substituted by Notification No. S.R.O. 270 dated the 28th January, 1953.

<sup>22</sup> By Notification No. S.R.O. 1859 dated the 31st October, 1952, the Central Government has fixed three per cent. of the total employer's and employee's contributions as administrative charges, vide Gazette of India, 1952, Part II—Section 3, page 1662.

**45. Inspection of cards by members.**—Any member making a request in this behalf to the employer shall be permitted to inspect his cards himself or to have the same inspected by any person duly authorised by him in writing to do so, within 72 hours of making such request provided that no such request shall be entertained more than once in every two calendar months.

**46. Production of cards and records for inspection by the Commissioner or Inspector.**—Every employer shall, whenever the Commissioner or any other Officer authorised by him in this behalf or an Inspector so requests, either in person or by notice in writing, produce before the Commissioner, Officer, or Inspector, as the case may be, the records of any member employed by him and any card then in his possession, and if so required, by the said Commissioner, Officer or Inspector shall deliver such record to the said Commissioner, Officer or Inspector, who may, if he thinks fit, retain the record provided that he shall grant a receipt for every record retained by him.

**47. Supply of cards and forms to employers.**—The Commissioner shall supply to employers, free of charge on demand contribution cards, Declaration Forms and other forms referred to in this Scheme:

Provided that if any employer desires to obtain any cards or forms in excess of the number which the Commissioner considers to be the requirements of the employer, the Commissioner may, if he thinks fit, supply such extra cards or forms and make such charge therefor as he considers reasonable.

**48. Current account.**—The Commissioner shall deposit the Bank drafts or cheques received from the employers in the Reserve Bank or the Imperial Bank of India in the Current Account of the Fund.

#### CHAPTER VII—ADMINISTRATION OF THE FUND, ACCOUNTS AND AUDIT

**49. Administration accounts.**—(1) A separate account shall be kept called the "Central Administration Account" for recording all administrative expenses of the Fund including such administrative charges as the Fund may be authorised to levy.

(2) A State Board when constituted shall meet the expenses referred to in paragraph 54(2) (b) and after keeping such reserve as the Central Government may specify, shall remit the balance to the Central Board for meeting its expenditure. The balance so remitted shall be credited to the "Central Administration Account".

**50. Provident Fund account.**—The aggregate amount received as the employers' and the employees' contributions to the Fund shall be credited to an account to be called the "Provident Fund Account".

**51. Interest suspense account.**—All interest, rent, and other income realised, and net profits or losses, if any, from the sale of investments not including therein the transactions of the Administration Account, shall be credited or debited, as the case may be, to an account called the "Interest Suspense Account". Brokerage and commission on the purchase and sale of securities and other investments shall be included in the purchase or sale price, as the case may be, and not separately charged to the "Interest Suspense Account".

**52. Investment of monies belonging to Employees' Provident Fund.**—(1) All monies belonging to the Fund shall be deposited in the Reserve Bank or the Imperial Bank of India or in such other scheduled Banks as may be approved by the Central Government from time to time or shall be invested, subject to such directions as the Central Government may from time to time give, in the securities mentioned or referred to in clauses (a) to (d) of Section 20 of the Indian Trusts Act, 1882 (II of 1882), provided that such securities are payable both in respect of capital and in respect of interest in India.

(2) All expenses incurred in respect of, and loss, if any, arising from, any investment shall be charged to the Fund.

(3) The Commissioner shall prepare, in Form 7 a classified summary of the Assets of the Fund as on the 31st March in each year, or on such other date as the Central Government may specify and shall append it to the annual report submitted under paragraph 74 to the Government concerned and also to the Central Government where it is not the Government concerned.

**53. Disposal of the Fund.**—(1) Subject to the provisions of the Act and of this Scheme, the Fund shall not, except with the previous sanction of the Central Government, be expended for any purpose other than for the payment of sums standing to the credit of individual members of the Fund or to their nominees or heirs or legal representatives in accordance with the provisions of this Scheme.

(2) The Fund shall be operated upon by such officers as may be authorised in this behalf by the Board concerned.

**54. Expenses of administration.**—(1) Until State Boards are constituted all expenses relating to the administration of the Fund including those incurred on Regional Committees shall be met from the Fund.

(2) When State Boards are constituted, the following provisions shall apply, namely:—

(a) Subject to the provisions of the Act and of this Scheme, all expenses of administration of the Central Fund including the fees and allowances, of the trustees of the Central Board and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident fund and other benefit funds instituted for the officers and servants of the Central Board, the cost of audit of the accounts, legal expenses and cost of all stationery and forms incurred in respect of the Central Board and expenses in respect of the Central Commissioner shall be met from the Central Administration Account of the Fund.

(b) All expenses of administration of the State Fund including the fees and allowances of the trustees of the State Board and salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident and other benefit funds in respect of the officers and servants of the State Board, the cost of audit of accounts, legal expenses and cost of all stationery and forms shall be met from the State Administration Account.

(3) The expenses incurred by the Central Government in connection with the establishment of the Fund shall be treated as a loan and such loan shall be repaid from the Central Administration Account.

**55. Forms of accounts.**—The Accounts of the Fund including "the Administration Account" shall be maintained by the Commissioner in such form and manner as may be specified by the appropriate Board with the approval of the Government concerned.

**56. Audit.**—(1) The accounts of the Fund, including the Administration Account shall be audited in accordance with the instructions issued by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The charges on account of audit shall be paid out of the Administration Account.

**57. Inter-State transfer of members.**—Where a member of the Fund ceases to reside in any State and settles in another State, he may apply to the Commissioner of the State Fund within whose jurisdiction he was originally residing in such form as the Commissioner may specify for a transfer of his account to the State Fund in which he takes up residence.

**58. Budget.**—(1) The Commissioner shall place before the appropriate Board each year in the first fortnight of January, a budget showing separately the probable receipts from the contributions and from the levy of administrative charge and the expenditure which it proposes to incur during the following financial year. The budget as approved by the Board shall be submitted for sanction to the Government concerned within a month of its being placed before the Board.

(2) The Government concerned may make such modifications in the budget as it considers desirable before sanctioning it.

**59. Member's accounts.**—(1) An account shall be opened in the office of the Fund in the name of each member in which shall be credited:—

- (a) his contributions,
- (b) the contributions made by the employer in respect of him, and
- (c) interest as provided in paragraph 60.

(2) All items of account shall be calculated to the nearest quarter of a rupee—two annas or more to be counted as the next higher quarter of a rupee and fractions of a rupee less than two annas to be ignored.

(3) On receipt of the contribution card, or cards of a member from his employer or employers at the end of the period of currency of the contribution card, the Commissioner shall compare the entries made in the contribution card or cards with those made in the member's individual account in the office of the Fund and shall rectify any discrepancy found in these entries.

**60. Interest.**—(1) The Commissioner shall credit to the account of each member interest at such rate as may be determined by the Central Government in consultation with the Central Board.

(2) Interest for the period of currency of the card shall be credited with effect from the last day of the period on the opening balance at the credit of the member on the first day thereof:

Provided that, when the amount standing to the credit of the member becomes payable, interest shall thereupon be credited under this sub-paragraph only for the period from the beginning of the current period upto the end of the month preceding the date of tender of payment or upto the end of the sixth month after the month in which the amount has become payable, whichever is earlier:

Provided further that the rate of interest to be allowed on claims for refund for the broken currency period shall be the rate fixed for the financial year in which the refund becomes payable.

(3) The aggregate amount of interest credited to the accounts of the members shall be debited to "Interest Suspense Account".

(4) In determining the rate of interest, the Central Government shall satisfy itself that there is no overdrawal on the "Interest Suspense Account" as a result of the debit thereto of the interest credited to the accounts of members.

#### CHAPTER VIII—NOMINATIONS, PAYMENTS AND WITHDRAWALS FROM THE FUND

**61. Nomination.**—(1) Each member shall make in his declaration in Form 2, a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made.

(2) A member may in his nomination distribute the amount that may stand to his credit in the Fund amongst his nominees at his own discretion.

(3) If a member has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by such member in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the member has no family, the nomination may be in favour of any person or persons but if the member subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the member shall make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made under sub-paragraph (1) may at any time be modified by a member after giving a written notice of his intention of doing so in Form 8 annexed hereto. If the nominee predeceases the member, the interest of the nominee shall revert to the member who may make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the Commissioner.

**62. Withdrawals from the Fund for payment towards Insurance Policies.**—Any amount with interest thereon standing to the credit of a member in the account of the Fund may be withdrawn not more than once in every six months to make a payment towards a policy of life insurance:

Provided that the withdrawal shall not be permitted before the details of the proposed policy have been submitted to the Commissioner in such form as he may specify and accepted by him as suitable. Nor shall the withdrawal be permitted in excess of the amount required to pay a premium or subscription actually due for payment within six months of the date of withdrawal:

Provided further that no amount may be withdrawn to make any payment in respect of, or for the purpose of purchasing, an educational endowment policy if that policy is due for payment in whole or part before the member attains the age of 55 years:

Provided further that the amount withdrawn shall not exceed the total contributions of the member upto the date of withdrawal.

**63. Commissioner to be satisfied regarding the utilisation of amounts withdrawn.**—(1) A member desiring to withdraw any amount under paragraph 62 shall—

(a) intimate the reason for the withdrawal to the Commissioner;

(b) make arrangements with the Commissioner for the withdrawal;

(c) send to the Commissioner, within such period as he may require, a receipt in order to satisfy him that the amount withdrawn was duly applied for the specified purpose.

(2) The Commissioner shall order the recovery of any amount withdrawn, in respect of which he is not satisfied that the amount withdrawn was actually spent for the specified

purpose, with interest thereon at the rate provided in paragraph 60 from the emoluments of the member and credit it to his account in the Fund.

**64. Assignment of Policies to the Fund.**—(1) The Policy, within six months after the first withdrawal in respect of it, shall be assigned to the appropriate Board as security for the payment of the amount withdrawn and shall be delivered to the Commissioner.

(2) The Commissioner shall, before allowing withdrawal in respect of old policies, satisfy himself by reference to the Insurance Company that no prior assignment of the policy exists and the policy is free from all encumbrances.

(3) The terms of the policy shall not be altered nor shall the policy be exchanged for another policy without the prior consent of the Commissioner to whom the details of the alteration or of the new policy shall be furnished in such form as he may specify.

(4) If the policy is not assigned and delivered, any amount withdrawn from the Fund in respect of the policy shall, with interest thereon at the rate provided in paragraph 60, forthwith be repaid by the member to the Fund, or in default be ordered by the Commissioner to be recovered by deduction from the emoluments of the member in such instalments as he may determine.

(5) A policy to be acceptable under this paragraph shall be effected by the member on his own life and shall be such as may be legally assigned by the member to the appropriate Board.

**65. Bonus to be adjusted against the withdrawal.**—A member shall not during the currency of the policy draw any bonus the drawal of which during such currency is optional under the terms of the policy, and the amount of any bonus which under the terms of the policy the member has no option to refrain from drawing during its currency shall be paid by him forthwith into the Fund to be adjusted against the amount withdrawn, or in default be recovered by deduction from his emoluments by such instalments as the Commissioner may determine.

**66. Re-assignment of Policies.**—(1) When the member—

- (a) permanently retires from service in the industry to which this Scheme applies after the attainment of the age of superannuation; or
- (b) retires on account of permanent and total incapacity for work in any industry to which this scheme applies due to bodily or mental infirmity as provided in sub-paragraph (1) (b) of paragraph 69; or
- (c) is permitted by the Board or where so authorised by the Board, the Commissioner under sub-paragraph (2) of paragraph 69 to withdraw the amount standing to his credit in the Fund; or
- (d) repays to the Fund the whole of any amount withdrawn from the Fund for any of the purposes mentioned in paragraph 62 with interest thereon at the rate provided in paragraph 60;

the Board shall re-assign the policy to the member and make it over to him together with a signed notice of the re-assignment addressed to the Insurance Company.

(2) If the member dies before quitting service, the Board shall re-assign the policy to the beneficiary, if any, or to such person as may be legally entitled to receive it and shall make over the policy to the beneficiary or to such persons together with a signed notice of the re-assignment addressed to the Insurance Company.

**67. Repayment of the amount withdrawn.**—If a policy assigned to the Board matures or otherwise falls due for payment before the member quits service, the Board shall—

- (i) if the amount assured together with the amount of any accrued bonus is greater than the whole of the amount withdrawn from the Fund in respect of the policy with interest thereon at the rate provided in paragraph 60, re-assign the policy to the member and make it over to him who shall immediately on receipt of the policy monies from the Insurance Company repay to the Fund the whole of any amount withdrawn with interest;
- (ii) if the amount assured together with the amount of any accrued bonus is less than the whole of the amount withdrawn with interest, realise the amount assured together with any accrued bonus and shall place the amount so realised to the credit of the member in the Fund.

**68. Recovery of the amount withdrawn in certain cases.**—The provisions of sub-paragraph (4) of paragraph 64 applicable to a failure to assign and deliver a policy shall apply—

- (i) if the policy lapses or is assigned, otherwise than to the Board charged or encumbered; or



- (ii) if the member does not repay the whole of the amount withdrawn with interest under sub-paragraph (1) of paragraph 67.

**69. Circumstances in which accumulations in the Fund are payable to a member.**—(1) A member may withdraw the full amount standing to his credit in the Fund—

- (a) on retirement from service in the industry at any time after the attainment of the age of superannuation:

Provided that if at the time of retirement such member, not being a member who has reached the age of 50 or above at the commencement of this Scheme, has not completed five years as a member of the Fund the employer's contribution and interest thereon shall be forfeited to the Fund; or

- (b) on retirement on account of permanent and total incapacity for work in any industry due to bodily or mental infirmity duly certified by a registered medical practitioner or the medical officer of the factory.

(2) The Board or where so authorised by the Board, the Commissioner may permit a member, who has not attained the age of superannuation, to withdraw the amount standing to his credit in the Fund; if—

- (a) he is migrating from India for permanent settlement abroad:

Provided that the amount shall be paid to him only immediately before the date of migration; or

- (b) he has not been employed in any factory to which this Scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal:

Provided that a certificate, from such authority as may be specified, of non-employment for a period of one year in any factory to which the Scheme applies is produced

(3) When a member withdraws any amount under sub-paragraph (2), the following provisions shall apply, namely—

- (i) the full amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of his membership of the Fund is less than 5 years; or

- (ii) half the amount of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 5 years or more but less than 10 years; or

- (iii) forty per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 10 years or more but less than 15 years; or

- (iv) twenty-five per cent. of the employer's contribution and interest thereon shall be forfeited to the Fund if the period of membership is 15 years or more but less than 20 years.

(4) A member who withdraws the amount under sub-paragraph (2) shall be required to join as a new member of the Fund if he obtains employment again in a factory to which this Scheme is applicable and qualifies again for the membership of the Fund.

(5) Any sum forfeited to the Fund under sub-paragraphs (1) and (2) shall not be returned to the employer but shall be credited to the "Reserve Account" of the Fund.

*Explanation I.*—In computing the period of membership of the Fund under this paragraph, there shall be included any continuous service, ending with the commencement of this Scheme, during which the person concerned was employed with the same employer irrespective of the fact whether during such period he was or was not a member of any other Provident Fund.

*Explanation II.*—For the purpose of this paragraph a member shall be deemed to have attained the age of superannuation on completing the age of 55 years.

**70. Accumulations of a deceased member—to whom payable.**—On the death of a member before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made—

- (i) if a nomination made by the member in accordance with paragraph 61 subsists, the amount standing to his credit in the Fund or that part thereof to which the nomination relates, shall become payable to his nominee or nominees in accordance with such nomination; or

- (ii) if no nomination subsists or if the nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall become payable to the members of his family in equal shares:

Provided that no share shall be payable to—

- (a) sons who have attained majority;
- (b) sons of a deceased son who have attained majority;
- (c) married daughters whose husbands are alive;
- (d) married daughters of a deceased son whose husbands are alive;

if there is any member of the family other than those specified in clauses (a), (b), (c) and (d):

Provided further that the widow or widows, and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the member and had not attained the age of majority at the time of the member's death.

- (iii) In any case to which the provisions of clauses (i) and (ii) do not apply the whole amount shall be payable to the person legally entitled to it.

*Explanation.*—For the purpose of this paragraph a member's posthumous child, if born alive, shall be treated in the same way as a surviving child born before the member's death.

**71. Deductions from the account of member dismissed for serious and wilful misconduct.**—(1) Notwithstanding anything contained in paragraph 69, if a member is dismissed by an employer in a factory to which this Scheme applies for serious and wilful misconduct, the employer may send intimation thereof to the Board and the Board or where so authorised by the Board, the Commissioner shall have the power to forfeit the employer's contribution upto a maximum of the employer's contribution in the last two complete periods of currency of the contribution cards and that of the period of currency of the current contribution card.

(2) Before exercising the power of forfeiture conferred by sub-paragraph (1), the member concerned shall be called upon by notice in writing to show cause why the forfeiture shall not be made and shall decide the amount of forfeiture after taking into account any representation made by the member.

(3) A forfeiture made under sub-paragraph (1) may be reviewed by the said Board either of its own motion or at the request of the employer or the member.

(4) Any amount forfeited from the individual account of a member under sub-paragraph (1) shall not be returned to the employer but shall be credited to the Reserve Account of the Fund.

**72. Payment of Provident Fund.**—(1) When the amount standing to the credit of a member, or the balance thereof after any deduction under paragraphs 69 and 71 becomes payable, it shall be the duty of the Commissioner to make prompt payment as provided in this Scheme. He shall close the account of the member and give notice in writing to the person to whom the amount is payable, specifying the amount and tendering payment thereof. In case there is no nominee in accordance with this Scheme, the Commissioner may, if the amount to the credit of the Fund does not exceed Rs. 300 and if satisfied after enquiry about the title of the claimant, pay such amount to the claimant.

(2) If any portion of the amount, which has become payable, is in dispute or doubt, the Commissioner shall make prompt payment of that portion of the amount in regard to which there is no dispute or doubt, the balance being adjusted as soon as may be possible.

(3) If the person to whom any amount is to be paid under this Scheme is a minor or a lunatic for whose estate a guardian under the Guardians and Wards Act, 1890 (VIII of 1890), or a manager under the Indian Lunacy Act, 1912 (IV of 1912), as the case may be, has been appointed, the payment shall be made to such guardian or manager. In case no such guardian or manager has been appointed, the payment shall be made to such person as the Commissioner, where the amount does not exceed Rs. 500 or the Chairman of the Board if the amount exceeds Rs. 500 but does not exceed Rs. 1,000, considers to be the proper person representing the minor or lunatic and the receipt of such person for the amount paid shall be a sufficient discharge thereof. In any other case the amount shall be paid to the person authorised by law to receive the payment on behalf of the minor or the lunatic.

(4) If it is brought to the notice of the Commissioner that a posthumous child is to be born to the deceased member he shall retain the amount which will be due to the child in the event of its being born alive, and distribute the balance. If subsequently no child is born or the child is still born, the amount retained shall be distributed in accordance with the provisions of paragraph 70.

(5) Any person who desires to claim payment under this paragraph shall send a written application to the Commissioner, who may, at the option of the person to whom payment is to be made, make the payment—(i) by postal money order at the cost of the payee or (ii) by crossed cheque sent through post, or (iii) by deposit in the payee's postal savings bank account, if any.

73. **Annual statement of member's account.**—(1) As soon as possible after the close of each period of currency of contribution card the Commissioner shall send to each member through the employer of the factory in which he was last employed a statement of his account in the Fund showing the opening balance at the beginning of the period, amount contributed during the year, the total amount of interest credited at the end of the period or debited in the period and the closing balance at the end of the period.

(2) Members should satisfy themselves as to the correctness of the annual statement and any error should be brought to the notice of the Commissioner within six months of the receipt of the statement.

#### CHAPTER IX—MISCELLANEOUS

74. **Annual Report on the working of the Scheme.**—(1) Every Board shall submit to the Government concerned by the 30th June each year a report on the working of the Employees' Provident Fund Scheme during the previous financial year.

(2) Every State Board shall also forward to the Central Government and the Central Commissioner a copy of the annual Report submitted to the State Government concerned.

75. **Issue of copies of member's accounts, Annual Reports, etc.**—The Commissioner shall furnish copies of the member's account and of the annual reports of the Fund to any employer or member on written application and on payment of such fees and subject to such conditions as may be specified by the appropriate Board in this behalf.

76. **Punishment for failure to pay contributions, etc.**—If any person—

- (a) fails to pay any contribution which he is liable to pay under this Scheme, or
- (b) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution, or
- (c) fails or refuses to submit any return, statement or other document required by this Scheme or submits a false return, statement or other document, or makes a false declaration, or
- (d) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties or fails to produce any record for inspection by such Inspector or other official, or
- (e) is guilty of contravention of or non-compliance with any other requirement of this Scheme,

he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

77. **Conduct of business of the Board.**—(1) All orders and other instruments shall be made and executed in the name of the Board and shall be authenticated by such person and in such manner as the Board may specify.

(2) All contracts and assurances of property shall be expressed to be made by the Board and shall be executed on behalf of the Board by the Commissioner.

78. **Power to issue directions.**—(1) The Central Government may, from time to time, issue such directions to State Governments, the Central Board or any other authority, under this Act or Scheme as it may consider necessary for the proper implementation of the Scheme or for the purpose of removing any difficulty which may arise in the administration thereof including difficulties in the matter of payment of accumulations in the Fund to members after they cease to be such members.

(2) Subject to the general control of the Central Government the State Government may issue any such directions to the State Board.

(3) The authority to whom any directions are issued under this paragraph shall comply with such directions.

23 [79. Special provisions relating to factories in respect of which applications for exemption are received.—Notwithstanding anything contained in this Scheme, the Commissioner may, in relation to a factory in respect of which an application for exemption under Section 17 of the Act has been received on or before the 31st day of October, 1952, relax pending the disposal of the application the provisions of this Scheme in such manner as he may direct.]

## FORM 1

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

*Election under paragraph 27 of the Scheme*

I hereby elect to continue to be a member of the.....  
.....Provident Fund of which I am at present a member.

1. Name (in block letters).....
2. Occupation.....
3. Sex.....
4. Religion.....
5. Father's name.....
6. Husband's name (for married women only) .....
7. Permanent Address.....
8. Name of Provident Fund of which he/she is already a member.....

I declare that all the particulars stated above are true to the best of my knowledge and belief.

Signature or left hand thumb impression of person employed.

Dated,.....

The.....195 .

Certified that the above declaration has been signed by.....  
.....employed in\*.....before me and that  
he/she is a member of the.....Provident Fund, a fund† recognised under  
the Indian Income-tax Act, 1922 to which the Provident Funds Act, 1925 applies.

Dated,.....

The.....195 .

Signature of the Manager or other authorised officer of the factory.

Registered No. of the Factory.....

\*Here give the name and address of the factory in which employed.

†Score out the portion not applicable.

## FORM 2—[Paragraphs 33 and 61(1)]

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

*Declaration and Nomination Form*

1. Name (in block capitals)..... Surname.....
2. Caste.....
3. Sex.....
4. Religion.....
5. Occupation.....Shop/Establishment/Department.....
6. Height.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital Status (whether bachelor, spinster, married, widow or widower).....
- \*10. Date of birth: Day.....month.....year.....
11. Marks of Identification.....
12. Permanent Address—Village...Thana.....Taluk/Sub-Division.....District...State.....

<sup>23</sup> Inserted by Notification No. S.R.O. 1858 dated the 4th November, 1952.

\*Where exact particulars are not available, approximate age may be indicated in consultation with the Medical Officer of the factory.

I declare that I have not previously been a member of the Employees Provident Fund and I hereby nominate the person/s mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulations in the fund to be paid to each nominee	Contingencies on the happening of which the nomination shall become invalid
1	2	3	4	5

Dated ..... Signature or left hand thumb impression of the member.

Certified that the above declaration has been signed by.....employed in my factory before me after he has read the entries/the entries have been read over to him by me.

Regd. No. of factory.

Signature of the Manager or other authorised officer.

Dated.....

Designation.....

Name and address of the factory.

### FORM 3—(Paragraphs 35 and 42)

#### THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

*Contribution Card for monthly paid employees for the period from... ..to ... ..*

1. Account No.....
2. Name (in block capitals).....Surname .....
3. Caste.....
4. Sex.....
5. Date of birth as given in Form 2.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital status (whether bachelor, spinster, married, widow or widower).....
10. Permanent Address.....
 

Village.....Thana.....Taluk/Sub-Division.....

District.....State.....
11. Signature or left hand thumb impression of member.....
12. Signature of person preparing the card.....
13. Signature of the Manager of the Factory.....
14. Registered Number of the Factory.....
15. Name and address of the Factory.....

## Particulars of employment

Registered number of factory	Period of employment		Remarks	Initial of the em- ployer's authorised clerk
	From	To		
The employer's and member's con- tributions should be shown sepa- rately for each month	Month 1	Month 2	Month 3	Month 4
	Employer's Member's Total Amount refunded			
Month 5	Month 6	Month 7	Month 8	Month 9
Month 10	Month 11	Month 12		

	Rs.	As.	
Total contribution by the employer.			Signature of the employer's Head
Total contribution by the member.			clerk or any authorised clerk.
Grand Total			Checked and found correct.
Amount refunded			Authorised official of the office of the Commissioner.

## FORM 4—(Paragraphs 35 and 42)

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

*Contribution Card for employees other than monthly paid employees for the period from .....to.....*

1. Account No.....
2. Name (in block capitals).....Surname.....
3. Caste.....
4. Sex .....
5. Date of birth as given in Form 2.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital status (whether bachelor, spinster, married, widow or widower).....
10. Permanent Address—Village..... Thana..... Taluk/Sub-Division
- District..... State.....
11. Signature or left hand thumb impression of member.....
12. Signature of person preparing the card.....
13. Signature of the Manager of the Factory.....
14. Registered Number of the Factory.....
15. Name and address of the Factory.....

I declare that I have not previously been a member of the Employees Provident Fund and I hereby nominate the person/s mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulations in the fund to be paid to each nominee	Contingencies on the happening of which the nomination shall become invalid
1	2	3	4	5

Dated ..... Signature or left hand thumb impression of the member.

Certified that the above declaration has been signed by.....employed in my factory before me after he has read the entries/the entries have been read over to him by me.

Regd. No. of factory.

Signature of the Manager or other authorised officer.

Dated.....

Designation.....

Name and address of the factory.

FORM 3—(Paragraphs 35 and 42)

THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

*Contribution Card for monthly paid employees for the period from..... to.....*

1. Account No.....
2. Name (in block capitals).....Surname .....
3. Caste.....
4. Sex.....
5. Date of birth as given in Form 2.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital status (whether bachelor, spinster, married, widow or widower).....
10. Permanent Address.....
 

Village.....Thana.....Taluk/Sub-Division.....

District.....State.....
11. Signature or left hand thumb impression of member.....
12. Signature of person preparing the card.....
13. Signature of the Manager of the Factory .....
14. Registered Number of the Factory.....
15. Name and address of the Factory.....

## Particulars of employment

Registered number of factory	Period of employment		Remarks	Initial of the em- ployer's authorised clerk
	From	To		
The employer's and member's con- tributions should be shown sepa- rately for each month  Employer's Member's Total Amount refunded	Month 1	Month 2	Month 3	Month 4
	Month 5	Month 6	Month 7	Month 8
	Month 9	Month 10	Month 11	Month 12

	Rs.	As.	
Total contribution by the employer.			Signature of the employer's Head
Total contribution by the member.			clerk or any authorised clerk.
Grand Total			Checked and found correct.
Amount refunded			Authorised official of the office of the Commissioner.

## FORM 4—(Paragraphs 35 and 42)

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

Contribution Card for employees other than monthly paid employees for the period from .....to.....

1. Account No. ....
2. Name (in block capitals).....Surname.....
3. Caste.....
4. Sex.....
5. Date of birth as given in Form 2.....
6. Occupation.....
7. Father's name.....
8. Husband's name (for married women only).....
9. Marital status (whether bachelor, spinster, married, widow or widower).....
10. Permanent Address—Village..... Thana..... Taluk / Sub-Division
- District..... State.....
11. Signature or left hand thumb impression of member.....
12. Signature of person preparing the card.....
13. Signature of the Manager of the Factory.....
14. Registered Number of the Factory.....
15. Name and address of the Factory.....



## Particulars of employment

Registered number of factory	Duration of employment		Remarks	Initials of the employer's authorised clerk
	From	To		

The employer's and member's contribution should be shown separately for each week		Employer's Member's Total Amount refunded	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6
			Week 7	Week 8	Week 9	Week 10	Week 11	Week 12
Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19	Week 20	Week 21
Week 22	Week 23	Week 24	Week 25	Week 26	Week 27	Week 28	Week 29	Week 30
Week 31	Week 32	Week 33	Week 34	Week 35	Week 36	Week 37	Week 38	Week 39
Week 40	Week 41	Week 42	Week 43	Week 44	Week 45	Week 46	Week 47	Week 48
Week 49	Week 50	Week 51	Week 52					

Rs. As.

Total contribution by the employer.

Signature of the employer's Head clerk or any authorised clerk.

Total contribution by the member.

Checked and found correct.

Grand Total

Authorised official of the office of the Commissioner.

Amount refunded.

## FORM 5—[Paragraph 36(2) (a)]

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

Return of employees qualifying for membership of the Employees Provident Fund for the first time during the month of.....19

(To be sent to the Commissioner in duplicate with Form 2)

Name and address of the factory.....

Registered No. of the factory.....

Serial No.	Name of the employee (in block capitals)	Father's name (or husband's name in case of married woman)	Sex	Basic monthly wages	Monthly dearness and other allowances including cash value of food concessions.	Account No. (to be filled up by the Commissioner vide paragraph 37)	Remarks

Dated.....

Signature of the manager of the factory.

**EMPLOYEES' PROVIDENT FUND SCHEME, 1952**

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**FORM 6—(Paragraph 43)**

**THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952.**

*Return of Contribution Cards sent to the Commissioner on the expiry.....of the period of currency from the.....195 , to the.....195*

(To be sent in duplicate).

Name and address of the factory.....

Registered No. of the factory.....

Serial No.	Account No.	Name of the member (in block capitals)	Total Contribution		Amount refunded		Remarks	Space for use in the Commissioner's office
			Rs.	As.	Rs.	As.		

Total Amount of contributions

Total Amount refunded

Total number of cards sent .....

Signature of the manager of the factory.

Dated.....

**FORM 7—[Paragraph 52(3)]**

**THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952**

*Classified summary of the assets of the Employees Provident Fund for the year.....*

Class of Assets	Book value as per (a) below	Market value as on...19... as per (b) below	Remarks as per (c) below
	Rs.	Rs.	Rs.
1. Government of India Securities			
2. Indian State Government Securities			
3. Indian Municipal Port and Improvement Trust Securities including debentures.			
4. Debentures of Indian Railways			
5. Guaranteed and Preference shares of Indian Railways			
6. Annuities of Indian Railways			
7. Ordinary shares of Railways in India			
8. Other debentures of concerns in India			
9. Other guaranteed and Preference shares of concerns in India.			
10. Other ordinary shares of concerns in India.			
11. Cash on deposit in Banks			
12. Cash in hand and on Current account in Banks.			
13. Other assets (to be specified)			

The summary shall show: (a) the value for which credit is taken in the accounts for each of the above-mentioned classes of assets; (b) the market value of such of the above-mentioned classes of assets as has been ascertained from published quotations; (c) how the value of such of the above-mentioned classes of assets as has not been ascertained from published quotations has been arrived at.

Signature of the Commissioner.

## FORM 8—[Paragraph 61(5)]

## THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

I.....hereby cancel the nomination made by me on the .....as regards the disposal, in the event of my death, of the amount standing to my credit in the Employees' Provident Fund and hereby nominate the person/s mentioned below to receive the amount standing to my credit in the Fund, in the event of my death before that amount has become payable, or having become payable has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names:—

Name and address of the nominee or nominees	Nominee's relationship with the member	Age of nominee	Amount or share of accumulations in the Fund to be paid to each nominee	Contingencies on the happening of which the nomination shall become invalid
1	2	3	4	5

Date.....

Signature or left hand thumb impression of member.

Certified that the above declaration has been signed before me by.....  
.....employed in.....

Registered No. of the factory.

Signature of the manager of the factory.

## PROVIDENT FUNDS ACT, 1925 (XIX OF 1925)

Statement of Objects and Reasons<sup>1</sup>

The Provident Funds Act at present provides that any sums standing to the credit of depositors in Provident Funds to which the Act applies after the death of the depositor and which are payable under the rules of the Fund, to the widow or children of the deceased shall vest in such widow or children. Such sums do not, therefore, form part of the estate of the deceased and the interests of the widow or children are thereby fully protected. It is considered that this provision is unduly restrictive and that the same degree of protection should be accorded to other dependants of the deceased besides his widow and children. Otherwise, the accumulations of a depositor, who dies before such accumulations are disbursed to him, may be held to be liable to meet the debts of the deceased and the object of the Provident Fund in question may be frustrated.

2. The Act protects compulsory deposits in a Provident Fund from attachments but not from assignments which may have been made to take effect on the depositor's retirement or on his death. On the other hand, the rules regulating the General Provident Fund, which is one of the most important funds to which the Act applies, provide that Government will not be bound by or recognise assignment or encumbrance executed or attempted to be created which affects the disposal of the accumulations of a depositor who dies before retirement. The validity of this provision is open to question. It is considered that in order to give effect to the object for which Provident Funds have been constituted, it should be made clear that with certain exceptions, in spite of debts, liabilities, assignments or any form of encumbrance, the depositor, on retirement or his dependants or nominees, if he dies before retirement or after retirement but before actual disbursement should receive in tact the accumulations at his credit in the fund. The exceptions proposed to this provision are as

<sup>1</sup> Gazette of India, 1924, Part V, pages 122-123.

follows:—(i) The rights of third parties obtained before the proposed amendment comes into operation should be protected and (ii) in case of contributory Provident Funds, the authority by which the fund was constituted should be entitled to withhold amounts not exceeding the total contributions made by the authority and the interest or increment on such contributions, if those amounts are due to the authority under a liability incurred by the depositor or if the depositor is dismissed from the authority's employment or resigns his employment within five years of the commencement thereof.

3. Again, under the Act as it stands, apart from the amounts which vest in the widow or children of a depositor, the disbursement of the accumulations in a fund at the time of the death of a depositor is impossible if the total assets exceed Rs. 2,000/- without the production of probate or letters of administration or a succession certificate. It is considered desirable to permit such disbursement of the accumulations if the amount does not exceed Rs. 5,000/- instead of Rs. 2,000/- as at present. A corresponding provision is contained in the Government Savings Bank Act under which the amount of a deposit which can be disbursed in this manner is Rs. 3,000/- as compared with Rs. 1,000/- before the Act was amended in 1917. Similarly under the Indian Securities Act, 1920, on the death of a person who was entitled to a Government security or securities, the prescribed officer may now determine who is the person entitled to the security or securities, if they do not in the aggregate exceed Rs. 5,000/- without the production of the probate, letters of administration or a succession certificate.

4. It has further been considered desirable to provide definitely in the Act for the rights of nominees and also to indicate that a deposit is compulsory deposit within the meaning of the Act and continues to be so for so long as it remains in the hands of the administrators of the fund despite the existence of an option permitting withdrawal from the fund on the condition that the amount withdrawn shall be expended on the taking out of, or on contributions towards, an insurance policy.

5. In order to give effect to these suggestions and also to certain other minor points, it is considered desirable to amend the existing Act and to re-enact it in a consolidated form.

## PROVIDENT FUNDS ACT, 1925 (XIX OF 1925)

### Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Protection of compulsory deposits.
4. Provision regarding repayments.
5. Rights of the nominee.
6. Power to make deductions.
7. Protection for acts done in good faith.
8. Powers to apply the Act to the Provident Fund.
9. Savings as to estates of soldiers.
10. Repeals.

SCHEDULE.

## PROVIDENT FUNDS ACT, 1925 (XIX OF 1925)<sup>1</sup>

*An Act to amend and consolidate the law relating to Government and other Provident Funds*

[27th August, 1925.]

Whereas it is expedient to amend and consolidate the law relating to Government and other Provident Funds: It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Provident Funds Act, 1925.

(2) It extends to <sup>2</sup>[the whole of India] <sup>3</sup>[except the State of Jammu and Kashmir].

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1924, Pt. V, p. 122; see also page 1232 ante.

This Act has been declared to be in force in Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws

(3) It shall come into force on such date<sup>4</sup> as the <sup>5</sup>[Central Government] may, by notification in the <sup>6</sup>[Official Gazette], appoint.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context—

- ...
- (a) "compulsory deposit" means a subscription to, or deposit in a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance <sup>7</sup>[or the payment of subscriptions or premia in respect of a family pension fund], and includes any contribution <sup>8</sup> \* \* \* and any interest or increment which has accrued under the rules of the fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;
- (b) "contribution" means any amount credited in a Provident Fund, by <sup>9</sup>[any authority administering the Fund], by way of addition to, <sup>10</sup>[a subscription to or deposit or balance at the credit of an individual account in] the Fund, and "contributory Provident Fund" means a Provident Fund the rules of which provide for the crediting of contributions;
- (c) "dependant" means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund, namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son's widow and child, and, where no parent of the subscriber or depositor is alive, a paternal grand-parent;
- (d) "Government Provident Fund" means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of <sup>11</sup>[the Secretary of State, the Central Government, the Crown Representative or any State Government] for any class or classes of <sup>12</sup>[persons in the service of the Government] or <sup>13</sup>[of persons employed in educational institutions or employed by bodies existing solely for educational purposes], <sup>14</sup>[and references in this Act to the Government shall be construed accordingly];
- (e) "Provident Fund" means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions <sup>15</sup>\* \* \* and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund;

Regulation, 1936 (5 of 1936), s. 3 and Sch. It has also been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>3</sup> Subs. by Part B States (Laws) Act, 1951 (III of 1951) w.e.f. 1-4-1951.

<sup>4</sup> 1st April, 1926; see Gen. R. & O., Vol. V, p. 641.

<sup>5</sup> Subs. by the A. O. 1937 for "Governor General in Council."

<sup>6</sup> Subs. for "Gazette of India", *ibid.*

<sup>7</sup> Ins. by the Provident Funds (Amendment) Act, 1930 (1 of 1930), s. 2.

<sup>8</sup> The words "credited in respect of any such subscription or deposit" rep., *ibid.*

<sup>9</sup> Subs. by the Provident Funds (Amendment) Act, 1925 (28 of 1925), s. 2 for "the authority by which the Fund has been constituted".

<sup>10</sup> Subs. by Act 1 of 1930, s. 2, for "or otherwise in respect of a subscription to, or deposit in".

<sup>11</sup> Subs. by the A. O. 1937 for "the Government."

<sup>12</sup> Subs. by s. 3 and Sch. II of the Repealing and Amending Act, 1942 (25 of 1942) for "its employees".

<sup>13</sup> Subs. by the Provident Fund (Amendment) Act, 1927 (7 of 1927), s. 2, for "for teachers in educational institutions".

<sup>14</sup> Ins. by the A. O. 1937.

<sup>15</sup> The words "credited in respect of such subscriptions or deposits", rep. by the Provident Funds (Amendment) Act, 1939 (1 of 1939), s. 2.

<sup>16</sup>(f) "Railway administration" means—

- (i) any company administering a railway or tramway in <sup>17</sup>[any part of India] either under a special Act of Parliament of the United Kingdom or an Indian law, or under contract with the Crown, or
- (ii) the manager of any railway or tramway administered by the <sup>18</sup>[Central Government] or by a State Government, and includes, in any case referred to in sub-clause (ii) the <sup>18</sup>[Central Government] or the State Government, as the case may be;]

(g) "Railway Provident Fund" means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees.

**3. Protection of compulsory deposits.**—(1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such compulsory deposit.

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund to any dependant of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall, subject to any deduction authorised by this Act and, save where the dependant is the widow or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor

**4. Provisions regarding repayments.**—(1) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or, if he is dead, shall—

- (a) if the sum or balance, or any part thereof, vests in a dependant under the provisions of section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf; or
- (b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (a), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or
- (c) in the case of any sum or balance or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same—(i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Indian Succession Act, 1925, or under the Bombay Regulation, VIII of 1827, entitling the holder thereof to receive payment of such sum, balance or

<sup>16</sup> Subs. by the A. O. 1937, for the original sub-section.

<sup>17</sup> Subs. by Act III of 1951 for "a Part A State or a Part C State."

<sup>18</sup> Subs. by the A. O. 1948 for "Federal Railway Authority".

part, or (ii) where no person is so nominated, to any person who produces such probate, letters or certificate:

Provided that, where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall, after making any deduction authorised by this Act and any payment due under clause (a) to or on behalf of the widow or children of the subscriber or depositor—

- (i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part of the balance thereof, as the case may be, to the assignee, or
- (ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it.

(2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government or the railway administration, as the case may be, from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

**5. Rights of the nominees.**—<sup>19</sup>(1) Notwithstanding anything contained in any law for the time being in force or in any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund, purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring before the sum has become payable or before the sum having become payable, has not been paid, the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all other persons, to receive such sum or part thereof, as the case may be, unless—

- (a) such nomination is at any time varied by any other nomination made in the like manner or expressly cancelled by notice given in the manner and to the authority prescribed by those rules, or
- (b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein,—

and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon the said person, become void and of no effect:

Provided that where provision has been duly made in the nomination in accordance with the rules of the Fund, conferring upon some other person such right in the stead of the person deceased, such right shall, upon the decease as aforesaid of the said person, pass to such other person.]

(2) Notwithstanding anything contained in the Indian Succession Act, 1925, or the Bombay Regulation VIII of 1827, any <sup>20</sup>[person, who becomes entitled as aforesaid, may be granted] a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to

<sup>19</sup> Subs. by s. 2 of the Provident Funds (Amendment) Act, 1946 (II of 1946) for the original sub-section.

<sup>20</sup> Subs. for "such person shall, on the death of the subscriber or depositor, be entitled to the grant of", *ibid.*

any other person of probate or letters of administration to the estate of the deceased.

<sup>21</sup>[(3) The provisions of this section as amended by sub-section (1) of section 2 of the Provident Funds (Amendment) Act, 1946, shall apply also to all such nominations made before the date of the commencement of that Act:

Provided that the provisions of this section as so amended shall not operate to affect any case, in which before the said date any sum has been paid, or has under the rules of the Fund become payable in pursuance of any nomination duly made in accordance with those rules.]

**6. Power to make deductions.**—When the sum standing to the credit of any subscriber or depositor in any Government or Railway Provident Fund which is a contributory Provident Fund becomes payable, there may, if the authority <sup>22</sup>[specified in this behalf in the rules of the Fund] so directs be deducted therefrom and paid to <sup>23</sup>[Government or the Railway Administration, as the case may be],—

- (a) any amount due under a liability incurred by the subscriber or depositor to <sup>23</sup>[Government or the Railway Administration], but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or
- (b) where the subscriber or depositor has been dismissed from <sup>24</sup>[his employment] for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the commencement thereof, the whole or any part of the amount of any such contributions, interest and increment.

**7. Protection for acts done in good faith.**—No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

<sup>25</sup>[**8. Powers to apply the Act to the Provident Fund.**—(1) The <sup>26</sup>[appropriate Government] may, by notification in the <sup>27</sup>[Official Gazette], direct that the provisions of this Act shall apply <sup>28</sup>to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local Authorities Loans Act, 1914 (IX of 1914) and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government.]

<sup>29</sup>[(2) The <sup>30</sup>[appropriate Government] may, by notification in the <sup>31</sup>[Official Gazette], direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule, or of any group of such institutions, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a

<sup>21</sup> Ins. by s. 2 of the Provident Funds (Amendment) Act, 1946 (11 of 1946).

<sup>22</sup> Subs. by the Provident Funds (Amendment) Act, 1925 (28 of 1925), s. 3 for "by which the Fund has been constituted."

<sup>23</sup> Subs. by s. 3, *ibid.*, for "that authority".

<sup>24</sup> Subs. by s. 3, *ibid.*, for "the employment of that authority."

<sup>25</sup> The original s. 3 was re-numbered as sub-section (1) by Act I of 1930, s. 3.

<sup>26</sup> Subs. by the A. O. 1937, for "Local Government."

<sup>27</sup> Subs. for "local official Gazette", *ibid.*

<sup>28</sup> For extension of the provisions of this Act to Provident Funds established by local authorities, see Gazette of India, 1947, pp. 445, 590 and 654.

<sup>29</sup> Ins. by s. 3 of the Provident Funds (Amendment) Act, 1930 (1 of 1930).

<sup>30</sup> Subs. by the A. O. 1937, for "Governor General in Council."

<sup>31</sup> Subs. for "Gazette of India," *ibid.*



Government Provident Fund and the authority having custody of the Fund were the Government.

Provided that section 6 shall apply as if the authority making the contributions referred to in that section were the Government.

(3) The <sup>32</sup>[appropriate Government] may, by notification in the <sup>33</sup>[Official Gazette], add to the Schedule the name of any public institution <sup>34</sup>[it] may deem fit, and any such addition shall take effect as if it had been made by this Act.]

<sup>35</sup>[(4) In this section "the appropriate Government" means—

- (a) in relation to a cantonment authority, a port authority for a major port, and any institution which, or the objects of which, appear to the Central Government to fall within List I in the Seventh Schedule to <sup>35a</sup>[the Constitution,] the Central Government; and
- (b) in other cases, the State Government.

*Explanation.*—"The State Government" in relation to an institution registered under the Societies Registration Act, 1860 (XXI of 1860), means the State Government of the State in which the society is registered.]

**9. Savings as to estates of soldiers.**—Nothing in section 4 or section 5 shall apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act 1893 (5, 6 and 57 Vict., C.5.) applies.

**10. Repeals.**—[Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.]

<sup>36</sup>[THE SCHEDULE—See sub-section (2) of Section 8.]

#### LIST OF INSTITUTIONS

1. The Pasteur Institute of India, Kasauli.
2. The Calcutta Improvement Tribunal.
3. A Court of Wards.
4. The Indian Central Cotton Committee
5. The Trustees for the European Hospital for Mental Diseases at Ranchi.
6. The National Association for supplying female medical aid to the women of India.
7. A College affiliated to a University established by Statute.
8. The Indian Coal Grading Board.
9. The Lady Minto's Indian Nursing Association.
10. The Indian Red Cross Society.
11. The Indian Lac Cess Committee.
12. The Madras Provincial Branch of the Indian Red Cross Society.
13. The Imperial Bank of India.
14. The Bihar and Orissa Medical Examination Board.
15. \* \* \* \*
16. The Institution created for the control of emigrant labour under the Tea Districts Emigrant Labour Act, 1932.
17. The Bombay Board of Film Censors.
18. The Calcutta University.
19. The Central Board of Irrigation.
20. The Reserve Bank of India.
21. \* \* \* \*
22. The Benares Hindu University.
23. The Medical Council of India.
24. The Indian Coffee Cess Committee.

<sup>32</sup> Subs. by the A. O. 1937, for "Governor General in Council."

<sup>33</sup> Subs. for "Gazette of India," *ibid.*

<sup>34</sup> Subs. for the word "he," *ibid.*

<sup>35</sup> Ins., *ibid.*

<sup>35a</sup> Subs. by the A. O. 1950 for "the Government of India Act, 1935."

<sup>36</sup> The Schedule containing items 1 to 7 was added by Act I of 1930, s. 4.

<sup>37</sup> Entry "15. The Punjab University" rep. by the A. O. 1948.

<sup>38</sup> Entry "21. The Trustees of the Victoria Memorial Park, Rangoon" rep. by the A. O. 1948.

25. The Inter-Provincial Board for Anglo-Indian and European Education.
26. The Indian Research Fund Association.
27. The Delhi Joint Water and Sewage Board.
28. The Tuberculosis Association of India.
29. The Coal Mines Housing Board.
30. A Group Committee of the Sleeper Pool of Indian Railways.
31. The Indian Coffee Market Expansion Board.
32. The Coal Mines Rescue Stations Committee.
33. The Indian Coffee Board.

39\* \* \* \* \*

35. The Indian Rubber Board.
36. The Indian Central Sugarcane Committee.
37. All-India Cattle Show Committee.
38. The Coal Mines Labour Welfare Fund.
39. The Indian Coconut Committee.
40. The Indian Central Tobacco Committee.
41. The College of Commerce, Delhi.
42. The Mica Mines Labour Welfare Office Establishment Contributory Provident Fund.
43. The Indian Council of Medical Research, New Delhi.
44. The Central Tea Board.

The Dental Council of India<sup>40</sup>. The Central Institute of Research in Indigenous Systems of Medicine, Jamnagar.<sup>41</sup>

## INDIAN INCOME-TAX ACT, 1922 (XI OF 1922) (EXTRACTS)

### CHAPTER IX-A—SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

#### Arrangement of Sections

- 58A Definitions.
- 58B The according and withdrawal of recognition.
- 58C Conditions to be satisfied by a recognised provident fund.
- 58D Power to relax restrictions of employer's contributions in certain cases.
- 58E Annual accretion deemed to be income received.
- 58F Exemption of annual accretion from income-tax.
- 58G Exemption of accumulated balance from income-tax and super-tax.
- 58H Deduction at source of income-tax payable on accumulated balances due.
- 58I Accounts of recognised provident funds.
- 58J Treatment of balances in newly recognised provident funds.
- 58K Treatment of fund transferred by employer to trustee.
- 58L Provisions relating to rules.
- 58M Application of this Chapter.

## INDIAN INCOME-TAX ACT, 1922 (XI OF 1922) (EXTRACTS)

### <sup>1</sup>[CHAPTER IXA—SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS]

**58A. Definitions.**—In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) a “recognised provident fund” means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter;

<sup>39</sup> Entry “34. The N. W. F. Province Branch of the Indian Red Cross Society” rep. by the A. O. 1948.

<sup>40</sup> Added by Notification No. S.R.O. 2319 dated the 17th October, 1955.

<sup>41</sup> Added by Notification No. S.R.O. 240 dated the 24th January, 1956.

<sup>1</sup> This Chapter was inserted in the Indian Income-tax Act, 1922 by s. 5 of the Indian Income-tax (Provident Funds Relief) Act, 1929 (XII of 1929). Statement of Objects and Reasons of Act XII of 1929—“The object of this Bill is to give as far as possible the

(b) an "employer" means—

(i) a Hindu undivided family, company, firm or other association of  
2\* \* persons, or

(ii) an individual engaged in a business, profession or vocation whereof  
the profits and gains are assessable to income-tax under section  
10, 3\* \* maintaining a provident fund for the benefit of  
his or its employees;

(c) an "employee" means an employee participating in a provident fund,  
but does not include a personal or domestic servant;

(d) a "contribution" means any sum credited by or on behalf of any  
employee out of his salary, or by an employer out of his own monies,  
to the individual account of an employee, but does not include any  
sum credited as interest;

(e) the "balance to the credit" of an employee means the total amount  
to the credit of his individual account in a provident fund at any  
time;

(f) the "annual accretion" to the balance to the credit of an employee  
means the increase to such balance in any year, arising from contri-  
butions and interest;

(g) the "accumulated balance due" to an employee means the balance to  
his credit, or such portion thereof as may be claimable by him under  
the regulations of the fund, on the day he ceases to be an employee  
of the employer maintaining the fund; and

(h) the "regulations of a fund" means the special body of regulations gov-  
erning the constitution and administration of a particular provident  
fund.

**58B. The according and withdrawal of recognition.**—(1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

1\* \* \* \* \*

4[(2)] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

same relief in respect of income-tax to contributions made to private provident funds maintained by commercial and other employers as is now given in respect of life insurance premia. This concession is proposed to be given in order to encourage thrift.

2. Broadly speaking, the form that the concession will take is that of exemption from income-tax of contributions made both by the employer and the employee in so far as these contributions do not exceed one-sixth of the employees' salary. It is to be noted that it is not intended to double the total relief which can be claimed by individual, and if a subscriber to a provident fund is also paying an annual life insurance premium, he will only be entitled to claim income-tax relief in respect of the latter to the extent that the joint contributions to the provident fund fall short of one-sixth of his total income. The concession will be restricted to provident funds which are subject to irrevocable trusts and otherwise conform to the conditions laid down in this Bill." (Gazette of India, 1929, Part V, pp. 153-154.)

<sup>2</sup> The words "individuals or" omitted by s. 71 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

<sup>3</sup> The words and figures "or section 11" were omitted, *ibid.*

<sup>4</sup> Sub-section (2) omitted and sub-sections (3), (4) and (5) renumbered as (2), (3) and (4), respectively, by s. 72 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

\*[(3)] An order withdrawing recognition shall take effect from the day on which it is made.

\*[(3A)] An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first mentioned fund.]

\*[(4)] An employer objecting to an order of the Commissioner refusing to recognise \*[(or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue.

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

**58C. Conditions to be satisfied by a recognised provident fund.**—(1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the <sup>7</sup>[Central Government] may by rule, prescribe—

(a) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in \*[(the taxable territories)]:

\*[Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in \*[(the taxable territories)] notwithstanding that a proportion not exceeding ten per cent. of the employees is employed outside India].

(b) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund:

<sup>10</sup>[Provided that an employee who retains his employment while serving in <sup>11</sup>[the Armed Forces of the Union] or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered <sup>11</sup>[the Armed Forces of the Union], or been so taken into or employed in the national service, contribute to the fund during his service in <sup>11</sup>[the Armed Forces of the Union] or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered <sup>11</sup>[the Armed Forces of the Union] or been taken into or employed in the national service.]

<sup>5</sup> Ins. by s. 9 of the Indian Income-tax (Amendment) Act, 1940 (XL of 1940).

<sup>6</sup> Ins. by s. 72 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

<sup>7</sup> Subs. for the words "Governor-General in Council" by the A. O. 1937.

<sup>8</sup> Subs. for the words "British India" by A. O., 1950.

<sup>9</sup> Added by s. 10 of the Indian Income-tax (Amendment) Act, 1940 (XL of 1940).

<sup>10</sup> Added, by s. 10, *ibid* and shall have effect from 3rd September, 1939.

<sup>11</sup> Subs. for the words "His Majesty's Forces" by the A. O. 1950.

- (c) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.
- (d) The fund shall consist of contributions as above specified <sup>12</sup>[and of donations, if any, received <sup>13</sup>[by the trustees], of accumulations thereof, and of interest (simple and compound), credited in respect of such <sup>14</sup>[contributions, donations and accumulations], and of securities purchased therewith, <sup>15</sup>[and of any capital gains arising from the sale, exchange or transfer of capital assets of the fund], and of no other sums:
- <sup>16</sup>[Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee, and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (g).]
- (e) The fund shall be vested in two or more trustees <sup>17</sup>[or in the Official Trustee] under a trust which shall not be revocable save with the consent of all the beneficiaries.
- (f) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

- (g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund, <sup>18</sup>[unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand.]
- (h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the <sup>19</sup>[Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

<sup>12</sup> Ins. by s. 10 of the Indian Income-tax (Amendment) Act, 1940 (XL of 1940).

<sup>13</sup> Subs. for the words "from the trustees" by s. 31 of the Indian Income-tax (Amendment) Act, 1941 (XXIII of 1941).

<sup>14</sup> Subs. for the words "contributions and accumulations" by s. 10 of the Indian Income-tax (Amendment) Act, 1940 (XL of 1940).

<sup>15</sup> Ins. by s. 14 of the Income-tax and Excess Profit Tax (Amendment) Act, 1947 (XXII of 1947).

<sup>16</sup> Ins. by s. 27 of the Indian Income-tax (Amendment) Act, 1953 (XXV of 1953) with effect from 1st April, 1952.

<sup>17</sup> Ins. by s. 2 of the Indian Income-tax (Amendment) Act, 1931 (IV of 1931).

<sup>18</sup> Ins. by s. 27 of the Indian Income-tax (Amendment) Act, 1953 (XXV of 1953) with effect from 1st April, 1952.

<sup>19</sup> Subs. for the words "Governor-General in Council" by the A. O. 1937.

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

**58D. Power to relax restrictions of employer's contributions in certain cases.**

—Subject to any rules which the <sup>19</sup>[Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (c) of sub-section (1) of section 58C—

(a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem; and

(b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

**58E. Annual accretion deemed to be income received.**—The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income-tax and super-tax:

Provided that, for the purpose of sub-section (3) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income.

**58F. Exemption of annual accretion from income-tax.**—(1) An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed <sup>20</sup>[one-fifth of his salary in that year or eight thousand rupees] whichever is less.

(2) <sup>21</sup>[Interest credited on the accumulated balance of any employee in a recognised provident fund shall be exempt from payment of income-tax, if and in so far as it does not exceed one-third of the salary of the employee for the year concerned and] in so far as it is allowed at a rate not exceeding such rate as the <sup>22</sup>[Central Government] may, by notification in the <sup>23</sup>[official Gazette], fix<sup>23a</sup> in this behalf.

**58G. Exemption of accumulated balance from income-tax and super-tax.**—

<sup>24</sup>[(1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E up to the first day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933), had come into force on the 15th March, 1930.]

<sup>20</sup> Subs. by s. 25 of the Finance Act, 1956 (XVIII of 1956).

<sup>21</sup> Substituted for the original words, *ibid*.

<sup>22</sup> Subs. for the words "Governor General in Council" by the A. O., 1937.

<sup>23</sup> Substituted for the words "Gazette of India", *ibid*.

<sup>23a</sup> The Central Government has fixed the rate at six per cent. by a Notification No. 10 dated the 15th March, 1930.

<sup>24</sup> Sub-section (1) was inserted and original sub-section (1) was re-numbered (2) by s. 26 of the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

<sup>25</sup>[(2)] Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax<sup>26</sup> \* \* and shall be excluded from the computation of his total income:

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

<sup>27</sup>[(3)] Where exemption from payment of income-tax is not allowed under the provisions of <sup>28</sup>[sub-section (2)], the Income-tax Officer shall calculate the total of the various sums of income-tax <sup>29</sup>[and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable.

**58H. Deduction at source of income-tax payable on accumulated balances due.**—The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under <sup>30</sup>[sub-section (3)] of section 58G and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section 58J, and sub-sections (4) to (9) of section 18<sup>30a</sup> shall apply as if the sum to be deducted were income-tax payable under the head "Salaries".

**58I. Accounts of recognised provident funds.**—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe.

**58J. Treatment of balances in newly recognised provident funds.**—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provi-

<sup>25</sup> Ins. originally as sub-section (1) and was renumbered (2) by s. 26 of the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933).

<sup>26</sup> The words "and super-tax" were omitted, *ibid.*

<sup>27</sup> Original sub-section (2) was re-numbered (3), *ibid.*

<sup>28</sup> Substituted for the word, brackets and figure "sub-section (1)", *ibid.*

<sup>29</sup> Subs. by s. 74 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

<sup>30</sup> Subs. by s. 2 of Repealing and Amending Act, 1934 (XXIV of 1934).

<sup>30a</sup> Section 18 deals with payment by deduction at source.

dent fund on the date on which the recognition of the fund takes effect, and sub-sections (3) and (4) shall apply thereto.

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter.

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate.

(4) Notwithstanding anything contained in condition (h) of sub-section (1) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful.

**58K. Treatment of fund transferred by employer to trustee.**—(1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, <sup>31</sup>[if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee,] be deemed to be an expenditure by the employer within the meaning of <sup>32</sup>[clause (xv)] of sub-section (2) of section 10<sup>33</sup>, incurred in the year in which the accumulated balance due to the employee is paid.

**58L. Provisions relating to rules.**—(1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59<sup>34</sup>.

<sup>31</sup> Ins. by s. 75 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

<sup>32</sup> Subs. for the word, brackets and figures "clause (xii) by the Finance Act, 1956 (XVIII of 1956), s. 26.

<sup>33</sup> Section 10 deals with taxable income on business.

<sup>34</sup> Section 59 gives power to the Central Board of Revenue, subject to the control of the Central Government to make rules for carrying out the purposes of the Act. Rules



(2) In addition to any power conferred by this Chapter, the <sup>35</sup>[Central Government] may make rules—

(a) prescribing the statements and other information to be submitted with an application for recognition;

(b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company;

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;

(d) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn; and

(e) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as <sup>36</sup>[it] may deem requisite.

**58M. Application of this Chapter.**—This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies.]

## RULES REGARDING RECOGNISED PROVIDENT FUNDS

*(Notification No. 9, dated the 15th March, 1930).*

In exercise of the powers conferred by Chapter IX-A of the Indian Income-tax Act, 1922 (XI of 1922), the Governor-General in Council is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 58-L, read with sub-section (4) of section 59 of the said Act:—

1. (1) These rules may be called the Indian Income-tax (Provident Funds Relief) Rules.

(2) They extend to the whole of British India including Berar, and every reference therein to British India shall be construed as including a reference to Berar.

2. In these rules, "Section" means a section of the Indian Income-tax Act, 1922 (XI of 1922).

\*3. (1) Where the employer is not a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913, the contributions made by employees after the date of recognition of a Provident Fund and the interest on the accumulated balance of such contributions shall be wholly invested either in securities of the nature specified in clause (a), (b), (c), (d) or (e) of section 20 of the Indian Trusts Act, 1882, and payable both in respect of capital and of interest in British India or in a Post Office Savings Bank Account in British India.

(2) Where the employer is a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913, all moneys contributed to a Provident Fund (whether by the company or by the employees) or accruing by way of interest or otherwise to such fund shall be wholly invested in accordance with the provisions of sub-section (2) of section 282-B of the Indian Companies Act, 1913, so, however, that the securities in which the contributions made by employees after the date of recognition of a Provident Fund and the interest on the accumulated balance of such contributions are invested are payable both in respect of capital and of interest in British India.

garding Recognised Provident Funds were framed under section 58L, under Notifications Nos. 9, 10 and 12 dated 15th March, 1930 and 16 dated 14th December, 1940.

<sup>35</sup> Subs. for the words "Governor-General in Council" by the A. O., 1937.

<sup>36</sup> Subs. for the word "he", by the A. O., 1937.

\*As amended by Notification No. 116, dated the 30th September, 1950.

[F.D. (C.R.) Notfn. No. 16, dated the 14th December, 1940.]

4. (1) Withdrawals by employees shall not be allowed by the trustees except on special grounds in the following circumstances or circumstances of a similar nature—

- (a) to pay expenses incurred in connection with the illness of a subscriber or a member of his family;
- (b) to pay for the passage over the sea of a subscriber or any member of his family;
- (c) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the subscriber it is incumbent upon him to perform and in connection with which it is obligatory that expenditure should be incurred;
- (d) to meet the expenditure on building or purchasing a house or a site for a house provided that such house or site is assigned to the trustees of the fund;

Provided, however, that at the discretion of the trustees of the fund the condition of such house or site being assigned to the trustees of the fund may be waived in the case of an employee whose income under the head "Salaries"\* does not exceed Rs. 1,500 per annum.

- (e) to pay premia on policies of insurance on the life of the subscriber or of his wife provided that the policy is assigned to the trustees of the fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the Income-tax Officer.

(2) For the purposes of sub-rule (1) "family" means any of the following persons who reside with and are wholly dependent on the employee namely:—the employee's wife, legitimate children, step-children, parents, sisters and minor brothers.

(3) (a) No such withdrawal shall exceed (1) the pay of the employee for three months, or, in the case of withdrawal for the purpose specified in clause (d) or clause (e) of sub-rule (1) six months at the time when the advance is granted, or (2) the total of the accumulation of exempted contributions and exempted interest contained in the balance to the credit of the employee whichever is less

(b) In the case of withdrawal for the purpose specified in clause (e) of sub-rule (1) the restriction imposed by clause (a) of sub-rule (3) shall apply to each withdrawal and not to total withdrawals.

(c) In the case of withdrawal by an employee falling within the proviso to clause (b) of sub-section (1) of section 58C the 'pay' referred to in clause (a) of sub-rule (3) shall mean the pay (including increments, if any) which the employee would have received had he not entered Armed Forces of the Union or been taken into or employed in the national service.

(4) (a) Save as in clauses (b), (c), (d) and (e) a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid.

(b) A withdrawal may be permitted for the purpose specified in clause (e) of sub-rule (1) notwithstanding that the sum withdrawn for any other purpose has not been repaid.

(c) Subsequent withdrawals for the purpose specified in clause (e) of sub-rule (1) may be permitted notwithstanding that the sums previously withdrawn for the same purpose have not been repaid.

(d) A withdrawal for any one of the purposes of sub-rule (1) other than that specified in clause (e) of that sub-rule may be permitted notwithstanding that the sums withdrawn for the purpose of clause (e) of the same sub-rule have not been repaid.

(e) A withdrawal for any one of the purposes of sub-rule (1) other than those specified in clauses (d) and (e) of that sub-rule shall be permitted notwithstanding that the sum withdrawn for the purpose of clause (d) of the same sub-rule has not been repaid.

5. (1) Where a withdrawal is allowed for a purpose specified in clause (d) or clause (e) of sub-rule (1) of rule 4 the amount withdrawn need not be repaid.

(2) Where a withdrawal is allowed for any other purpose the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments and shall bear interest in accordance with rule 6 and subject to the provisions of sub-rule (4) of rule 4 no further withdrawal shall be permitted until repayment has been effected in full.

6. In respect of withdrawals which are repaid in not more than 12 monthly instalments, an additional instalment of 4 per cent. of the amount withdrawn shall be paid on account of interest; and in respect of withdrawals which are repaid in more than 12 monthly instalments two such instalments of 4 per cent. of the amount withdrawn shall be paid on account of interest:

Provided, however, that at the discretion of the trustees of the fund interest may be recovered on the amount withdrawn or the balance thereof outstanding from time to time

\*Under section 7 of the Indian Income-tax Act, 1922, the head "Salaries" include salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits in lieu of, or in addition, to any salary or wages, advances by way of loan or otherwise of income

at 1 per cent. above the rate which is payable for the time being on the balance in the fund at the credit of the member.

7. The employer shall deduct such instalments from the employee's salary, and pay them to the trustees. These deductions shall commence from the second monthly payment made after the withdrawal or in the case of an employee on leave without pay from the second monthly payment made after his return to duty.

8. In case of default of repayment of instalments under rules 6 and 7 the Commissioner of Income-tax may at his discretion order that the amount of the withdrawal or the amount outstanding shall be added to the total income of the employee for the year in which the default occurs and the Income-tax Officer shall assess the employee accordingly.

9. Notwithstanding anything contained in rules 4 to 8, it shall be open to the trustees of a recognised provident fund to permit the withdrawal of ninety per cent. of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund.

9-A. Where the accounts of a recognised provident fund are kept outside British India certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in British India:

Provided that the Income-tax Officer may in any year appoint a date not later than the 15th June as the date by which the certified copies shall be supplied.

10. (1) An application for recognition shall be made by the employer maintaining the fund for which recognition is sought and shall be accompanied by the following documents:—

- (a) the trust deed if any in original with one copy thereof, the latter to be retained by the Commissioner, and
- (b) the rules of the fund:

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the Commissioner of Income-tax to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in Rule 7 of the Indian Companies Rules, 1914, in which case an additional copy shall be furnished for retention by the Commissioner.

(2) The application shall be submitted through the Income-tax Officer of the area in which the accounts of the funds are kept, or, if the accounts are kept outside India, through the Income-tax Officer of the area in which the local headquarters of the employer are situate.

(3) The application shall contain the following information:—

- (a) Name of employer and address, his business, profession, etc., also his principal place of business.
- (b) Number of employees subscribing to the fund—
  - (i) in British India;
  - (ii) in Indian States;
  - (iii) outside India.
- (c) Place where the accounts of the fund are or will be maintained.
- (d) If the fund is already in existence—
  - (i) a copy of the last balance sheet of the fund, where such is maintained,
  - (ii) details of investments of the fund.

(4) A verification in the following form shall be annexed to the application:—

*Form of verification.*

We/I, the trustee(s) of the above-named fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof.

11. Where an employee of a company owns shares in the company with a voting power exceeding ten per cent. of the whole of such power the sum of the exempted contributions of the employee and employer to the recognised provident fund maintained by the company shall not exceed Rs. 250 in any month.

12. If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the Income-tax Officer shall, on the fact of the assignment or charge coming to his knowledge, give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the Income-tax Officer and shall be assessed accordingly.

13. If the Commissioner withdraws recognition from a recognised provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall be paid to him free of income-tax and super-tax at

the time when such employee receives the accumulated balance due to him. The remainder of the accumulated balance due to him shall be liable to income-tax and super-tax as if the fund had never been recognised.

14. Before withdrawing recognition, the Commissioner of Income-tax shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn.

15. (1) For the purpose of clause (a) of section 58D the employer's aggregate contribution in any year, including the normal contribution, to the individual account of any one employee whose salary does not exceed five hundred rupees per mensem shall not exceed double the amount of the contribution of the employee in that year.

(2) The amount of the periodical bonuses and other contributions of a contingent nature which may be credited by an employer in any year under clause (b) of section 58D to the individual account of any one employee shall not exceed the amount of the contribution of the employee in that year. [F.D. (C.R.) Notfn. 31-I.T., dated the 9th May, 1942.]

## II

(Notification No. 10 dated the 15th March, 1930).

In pursuance of sub-section (2) of section 58-F, of the Indian Income-tax Act, 1922 (XI of 1922), the Governor-General in Council is pleased to fix six per cent. as the rate referred to in the said sub-section.

This notification shall apply to the whole of British India including Berar.

## III

Notification No. 12 dated the 15th March, 1930).

In exercise of the powers conferred by Chapter IX-A and by section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue is pleased to make the following rules, the same having been previously published as required by sub-section (1) of section 58-L read with sub-section (4) of section 59 of the said Act:—

<sup>1</sup>(1) These rules may be called the Indian Income-tax (Provident Funds Relief) (Central Board of Revenue) Rules.

<sup>2</sup>(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules "section" means a section of the Indian Income-tax Act, 1922 (XI of 1922).

3. An order according recognition to a provident fund shall take effect from the last day of the month in which the application for recognition is received by the Income-tax authority concerned, unless, at the request of the employer, the last day of any later month in the same financial year is specified.

4. An appeal under sub-section (4) of section 58-B, shall be in the following form and shall be verified in the manner indicated therein:—

*Form of appeal against refusal to recognise or withdrawal of recognition from a Provident Fund.*

To

The Central Board of Revenue.

The petition of  
profession or vocation

employer(s) carrying on business,  
at .

Your petitioner(s) *applied to (obtained sanction from)* the Commissioner of Income-tax under section 58-B of the Indian Income-tax Act, 1922, for the recognition of the provident fund maintained by him (them) for the benefit of his (their) employees. The Commissioner of Income-tax has *refused recognition (withdrawn recognition)* for the reasons stated in his order dated of which a copy is attached.

For the reasons set out below your petitioner(s) submit(s) that the fund should *be (continue to be)* recognised, and pray(s) that the Central Board of Revenue may be pleased to accord recognition/continue the recognition.

### GROUND OF APPEAL.

We/I, the petitioner(s) named in the above petition do declare that what is stated therein is true to the best of our/my information and belief.

Address of the appellant

Signature.

Date

N. B.—Unnecessary words or letters should be scored out.

<sup>1</sup> As amended by Notification No. 46 dated 26th July, 1952.

<sup>2</sup> As amended by Notification No. 13 dated 26th February, 1952.

<sup>3</sup> This rule was substituted by Board's Notification No. 11-I.T., dated 11-5-1946.

5. The accounts of a recognised provident fund shall be prepared at intervals of not more than twelve months.

6. Account shall be maintained for each subscriber to the fund and it shall include the particulars shown in the following forms:—

Account closed

Date

Paid to employee

Lapsed to employer or to fund

Recovery by employer

Name..... Date of joining Fund.....

Year and month	Salary	Contributions					Exempt	Not exempt	Additions to total income (columns 4, 5 and 7)	Remarks
		Contribution by employee	Regular contributions by employer	Employer's contribution of a contingent nature	Total of columns 3, 4 and 5	Total interest on column 6*				
							Contributions not exceeding 1/6th of salary for the year or Rs. 6,000 whichever is less	Interest on sums in column 6 at...% but not exceeding 1/3rd of the salary for the year	Contributions col. 6 minus column 8	Interest col. 7 minus col. 9
Balance brought forward										
April . . .										
May . . .										
March . . .										
Total . . .										
Adjustment on account of temporary withdrawals account (columns 8 and 9 only)										
Adjustment on account of non-repayable withdrawals account (columns 10 and 11)										
Total carried over .										

NON-REPAYABLE WITHDRAWALS  
ACCOUNT

TEMPORARY WITHDRAWALS  
ACCOUNT

	Amount		Advance	Repayment	Interest
		Balance brought forward			
April . . .		April . . .			
May . . .		May . . .			
June . . .		June . . .			
July . . .		July . . .			
March . . .		March . . .			
Total . . .		Balance carried over .			

\*If desired column 7 may be divided into sub-columns to show separately the interest on column 3 and columns 4 and 5 respectively.

7. An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a recognised provident fund whose income under the head "Salaries" is Rs. 3000<sup>4</sup> or over per annum, shall be furnished by the trustees to the Income-tax Officer of the area in which the employer conducts his business, profession or vocations, or to such other Income-tax Officer as the Commissioner may, in each case, direct, not later than the fifteenth day of June in each year or any other subsequent date fixed by the Income-tax Officer. It shall be in the form prescribed in rule 6, but shall show only the totals of the various columns thereof for the financial year or other accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. Similar abstract shall also be furnished in respect of other employees participating in a recognised provident fund who were allowed withdrawals under rule 4 of the Indian Income-tax (Provident Funds Relief) Rules or who come within the purview of rule 11 of these Rules.

8. The account to be made under the provisions of sub-section (1) of section 58-J shall show in respect of each employee (i) the total salary paid to the employee during the period of his participation in the provident fund, (ii) the total contributions, (iii) the total interest which has accrued thereon, and (iv) so far as may be, the percentage of the employee's salary in accordance with which contributions have been made by the employer and employee.

## MODEL PROVIDENT FUND RULES FOR INDUSTRIAL EMPLOYEES

### Arrangement of Paragraphs

1. Definitions.
  2. Constitution and Management of the Fund.
  3. (1) Compulsory Subscribers; (2) Optional Subscribers.
  4. Nomination.
  5. Subscriber's Account.
  6. Conditions and rates of subscription.
  7. Realisation of subscriptions.
  8. Contribution by the employer.
  9. Interest.
  10. Advances from the fund and their repayment.
  11. Circumstances in which accumulations are payable.
  12. Deductions.
  13. Investment.
  14. Reference of disputed cases to a Referee.
  15. Closure of the Fund.
- FORM OF NOMINATION.

## MODEL PROVIDENT FUND RULES FOR INDUSTRIAL EMPLOYEES<sup>1</sup>

1. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context—

(1) "Board" means the Board of Trustees constituted under rule 2;

(2) "children" means legitimate children and step-children, but includes adopted children only if the Board is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child;

(3) "emoluments" means pay in cash drawn monthly by an employee including any wages paid to employee not remunerated by fixed monthly pay but does not, include any overtime allowances, any dearness allowance, or bonuses;

Provided that the monthly emoluments of an employee paid at daily rates shall be deemed to be 24/25/26 times his daily rate of wages admissible to him for the first normal working day of the month;

<sup>4</sup> Notification No. 112-I.T., dated the 12th October, 1951.

<sup>1</sup> These Model Rules were prepared by the Government of India and submitted for discussion at the Fifth Indian Labour Conference held at New Delhi in September 1943 and after discussion in the 4th Meeting of the Standing Labour Committee held at Lucknow in January, 1944, were circulated to the State Governments, Employers' and Employees' Associations for information and adoption, if required.

## (4) "family" means—

(a) in the case of a male subscriber, the wife, or wives and children of the subscriber, and the widow or widows, and children of a deceased son of the subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance, she shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently indicates by express intimation in writing to the Board that she shall continue to be so regarded;

(b) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber by intimation in writing to the Board expresses her desire to exclude her husband from the family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently cancels formally in writing her intimation excluding him:

Provided further that, in either case, if the child of a subscriber has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised as conferring the status of a natural child, such a child shall be considered as excluded from the family of the subscriber;

(5) "Fund" means the Provident Fund in force;

(6) "Subscriber" means an employee who is required under these rules or is permitted by the employer to subscribe to the Fund.

**2. Constitution and Management of the Fund.**—(1) The Fund shall be administered by a Board of Trustees formed with an equal number of representatives of the employer and the subscribers. The total strength of the Board shall not exceed ten.

(2) The Board shall elect its own President, and he shall exercise his individual vote on any question under discussion in the Board but shall not have the right to a casting vote.

(3) The employer shall have the right to appoint a substitute if during the course of the working year of the Board a vacancy occurs among the representatives nominated by him.

(4) The subscribers shall have the right to elect a substitute for any of their representatives who resigns from the Board or ceases to be a subscriber during the term of office of the Board.

(5) The term of office of each Board of Trustees shall be one year from the date of its constitution.

(6) The subscribers shall elect their representatives to the Board each year at a general meeting held specifically for the purpose and the employer shall nominate his representatives as soon as possible thereafter.

(7) The Board shall elect or appoint its own Secretary, and he shall keep a record of the decisions of the Board and the accounts of the Fund. He shall also be responsible for keeping the records of the Board.

(8) Out of the moneys received from time to time the Board may keep in an account or accounts in any Bank or Banks, a sum not exceeding Rupees . . . . The Board may authorise its Secretary to operate on the Bank account up to a sum not exceeding Rupees. . . .

(9) The annual general meeting of the subscribers shall ordinarily be held in the month of each year.

(10) The Board shall meet at least once a quarter, and one half of the total membership shall form a quorum.

(11) The accounts of the Fund shall be audited by an Auditor appointed annually by the Board for the purpose. The Auditor's report on the accounts shall be made available to the subscribers and to the employer.

**3. Compulsory Subscribers.**—(1) Every non-pensionable employee who has worked for not less than 200 days in a year or for 300 days during two years and whose monthly emoluments are not less than Rs. 25 shall subscribe to the Fund in accordance with these rules.

(2) **Optional Subscribers.**—An employee whose monthly emoluments are less than Rs. 25 and who has worked for not less than 200 days during a year or for 300 days during 2 years may also subscribe to the Fund in accordance with the Rules, if so permitted by the employer.

**4. Nomination.**—(1) The Board shall require every subscriber to make a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death occurring before the amount standing to his credit has become payable.

Provided that a subscriber may modify a nomination once made after giving written notice of his intention of doing so.

(2) Nomination shall save as hereinafter provided be in favour of one or more members of the subscriber's family and shall be made in the appended form. If a subscriber nominates more nominees than one, he may apportion the amount that may stand to his credit in the Fund amongst his nominees at his own discretion. If, at the time of making the nomination, the subscriber has no family, the nomination may be in favour of any other person or persons, but if the subscriber subsequently acquires a family, such nomination shall forthwith stand cancelled.

**5. Subscriber's Account.**—(1) An account shall be opened in the name of each subscriber in which shall be credited:—(i) the subscriber's subscription; (ii) the contribution made by the employer to the subscriber's account; (iii) the interest on the total moneys in the subscriber's account.

(2) Each subscriber shall be given a pass book in which shall be entered every month, the credits referred to in sub-rule (1) and also the advances, if any, taken and the repayments made, by him.

**6. Conditions and rates of subscription.**—(1) Every subscriber shall subscribe monthly to the Fund when on duty. The payment of subscription during leave shall be optional, and no subscription shall be recovered when the subscriber is on leave without pay.

(2) The amount of subscription shall be fixed by the subscriber himself and it may be any sum not less than  $3\frac{1}{2}$  per cent. (i.e., a half anna in the rupee) of his emoluments and more than  $8\frac{1}{2}$  per cent. (i.e., one anna and four pies in the rupee). The amount shall be rounded to the nearest anna.

(3) A subscriber may alter his rate of subscription with effect from the beginning of any year, financial or otherwise, which may be followed by the employer for the purpose of his accounts, provided that he gives notice of the change to the employer before the end of the preceding year.

**7. Realisation of subscriptions.**—The subscription due from each subscriber shall be realised by monthly deductions from his emoluments.

**8. Contribution by the employer.**—The employer shall make a monthly contribution to the account of each subscriber equal to the amount subscribed by the subscriber himself, and such contribution shall be credited to the Fund not later than the fifteenth of the month in which the subscriber's subscription is deducted from his emoluments.

**9. Interest.**—Interest earned on the moneys of the Fund invested under rule 13 shall be credited to the accounts of the individual subscriber *pro rata*.

**10. Advances from the Fund and their repayment.**—(1) A temporary advance may be granted to a subscriber from the amount standing to his credit in the Fund at the discretion of the Board, subject to the following conditions:—

(a) No advance may be granted unless the Board is satisfied that the applicant's pecuniary circumstances justify it and that the amount advanced will be expended on either or both of the following objects:—(i) to pay expenses incurred in connection with the prolonged illness of the subscriber or any person actually dependent on him; (ii) to pay obligatory expenses on a scale appropriate to the subscriber's status in connection with marriages, funerals or ceremonies which by his religion it is incumbent on him to perform.

(b) An advance shall not ordinarily exceed three months' emoluments and shall not exceed, (i) if made for the object specified in sub-clause (i) of clause (a) the amount of subscriptions and interest thereon standing to the credit of the subscriber in the Fund and (ii) if made for any of the objects specified in sub-clause (ii) of clause (a) half such amount.

(c) A second or subsequent advance shall not be granted until at least  $3\frac{1}{6}$  months have lapsed since the complete repayment of a previous advance together with interest.

(2) An advance shall be recovered from the subscriber in such number of equal monthly instalments as the Board may direct; but such number shall not be less than 12, nor more than 24. A subscriber may at his option make repayment in a smaller number of instalments than the number directed.

(3) Recovery shall be made in the manner provided by rule 7 for the realisation of subscriptions and shall commence on the occasion, after the advance is made, on which



the subscriber receives not less than 75 per cent. of his normal emoluments. Recovery shall not be made, except with the subscriber's consent while he is on leave.

(4) After the principal of the advance has been fully repaid, interest shall be paid thereon at such rate as may be prescribed by the Board from time to time.

(5) Interest shall be recovered in one or two instalments in the month or months immediately following the repayment of the principal.

(6) Recoveries of advances and the interest thereon shall be credited as they are made to the account of the subscriber in the Fund.

**11. Circumstances in which accumulations are payable.**—(1) If a subscriber dies or for other reasons ceases to be a subscriber, the amount standing to his credit in the Fund, including interest up to date shall become payable to him or his nominee, subject to any deduction authorised under rule 12.

(2) No claim shall be entertainable against the Fund if made more than three years after the date on which the amount due become payable.

(3) Any amount due from the Fund shall cease to bear interest after three months from the date on which the amount became payable.

(4) Payments under sub-rule (1) to the employee or his nominees in the event of his death, shall be made within one month of the date on which they fall due. In the case of the death of an employee who has no subsisting nomination it shall be competent for the Board to pay the amount due to the natural heir or heirs of the deceased employee provided the Board is satisfied as to the heirship of the claimant or claimants.

**12. Deductions.**—(1) Subject to the provisions of sub-rule (2) no deductions shall be made from the amount standing to the credit of a subscriber when final payment is made to him or his nominees under rule 11.

(2) If any subscriber is dismissed from service for serious misconduct or resigns or leaves his employment at his own request otherwise than on medical grounds, or if any voluntary subscriber while remaining in his employment discontinues his subscriptions to the Fund, the Board may direct that deductions shall be made from the amount paid into the subscriber's account by the employer under rule 8 (including interest) in accordance with the following scale:—

(a) Subscribers of less than 3 years standing	... 100 per cent.
(b) Subscribers of 3 but less than 6 years standing	... 50 per cent.
(c) Subscribers of 6 but less than 9 years standing	... 25 per cent.
(d) Subscribers of 9 or more years standing	... nil.

**13. Investment.**—The moneys of the Fund not immediately required for the purposes of the Fund and held in a Bank account shall be invested by the Board in any securities for the time being authorised under the Indian Income-tax Act, 1922 and the Indian Trusts Act, 1882 and the rules made thereunder in respect of the investment of moneys of a Provident Fund recognised under the Indian Income-tax Act, 1922. Such investment shall be made in the name of the Board and may when the conditions of investment permit be made payable or transferrable to the order of any two members of the Board.

**14. Reference of disputed cases to a Referee.**—(1) The decision of the Board shall be final and binding upon the subscribers and the employer in all matters relating to the Fund, and in the event of the Board being equally divided in its opinion on any dispute between the employer and a subscriber or his nominees in the event of his death, the dispute shall be submitted for decision to a Referee agreed upon by the Board.

(2) In the event of the Board not agreeing upon a Referee, the dispute shall be referred to an authority nominated for this purpose, by a general or special order by the State Government<sup>2</sup> and the decision of such authority will be final. The fees and expenses of a Referee agreed upon by the Board or of the authority to whom the dispute is referred shall be defrayed out of the Fund.

**15. Closure of the Fund.**—Before the closing of the Fund, all amounts due and all assets shall be realised and all liabilities shall be liquidated. All accumulations due to members shall be paid and the surplus, if any, shall be paid to the members of the Fund at the date of closing in proportion to the amount standing to the credit of each member.

<sup>2</sup> An employer intending to adopt this sub-rule will have to obtain State Government's permission.

## FORM OF NOMINATION

I hereby direct that the amount at my credit in the Provident Fund at the time of my death shall be distributed among the persons mentioned below in the manner shown against their names:

Name and address of the nominee or nominees.	Relationship of each nominee with the subscriber.	Age of each nominee.	Amount or share of accumulations.
(1)	(2)	(3)	(4)

*Note:*—Column (4) shall be filled in so as to cover the whole amount at credit.

## INDIAN INCOME-TAX ACT, 1922 (XI OF 1922) (EXTRACTS)

## CHAPTER IXB—SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS

## Arrangement of Sections

- 58N Definitions.
- 58O Approval and withdrawal of approval.
- 58P Conditions for approval.
- 58Q Application for approval.
- 58R Exemption of Superannuation Fund from income-tax.
- 58S Treatment of repaid contributions.
- 58T Deduction from pay of and contributions on behalf of employee to be included in return under Section 21.
- 58U Liabilities of trustees on cessation of approval of fund.
- 58V Particulars to be furnished in respect of Superannuation Funds.

## INDIAN INCOME-TAX ACT, 1922 (XI OF 1922) (EXTRACTS)

<sup>1</sup>[CHAPTER IXB—SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS]

**58N. Definitions.**—In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) 'approved superannuation fund' means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter;
- (b) 'employer', 'employee' and 'contribution' have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds;
- (c) 'ordinary annual contribution' means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund.

<sup>1</sup> Chapter IXB was inserted in the Indian Income-tax Act, 1922 (XI of 1922) by Section 76 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

**58O. Approval and withdrawal of approval.**—(1) The Central Board of Revenue may accord approval to any superannuation fund or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the fund or part cease to warrant the continuance of the approval.

(2) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

(3) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.

**58P. Conditions for approval.**—In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely:—

- (a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in <sup>2</sup>[the taxable territories];
- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons; and
- (c) the employer in the trade or undertaking shall be a contributor to the fund;

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

- (i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or
- (ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or
- (iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in <sup>2</sup>[the taxable territories].

**58Q. Application for approval.**—(1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Income-tax Officer, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Central Board of Revenue may require such further information to be supplied as it thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of

<sup>2</sup> Subs. for the words "British India" by the A. O. 1950.

the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

**58R. Exemption of superannuation fund from income-tax.**—Income derived from investments or deposits of an approved superannuation fund <sup>3</sup>[and any capital gains arising from the sale, exchange or transfer of capital assets of such fund] shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15<sup>4</sup> apply:

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution:

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of this section, be treated, as the Central Board of Revenue may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of Revenue thinks proper.

**58S. Treatment of repaid contributions.**—(1) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax<sup>5</sup> \* \* to be income of the employee for that year.

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment, income-tax on the amount so repaid or paid shall except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax \* \* \* during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct.

**58T. Deduction from pay of, and contributions on behalf of employee to be included in return under section 21.**<sup>6</sup>—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21.<sup>6</sup>

**58U. Liabilities of trustees on cessation of approval of fund.**—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

(a) on account of returned contributions (including interest on contributions, if any), and

(b) in commutation or in lieu of annuities,

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter.

<sup>3</sup> Ins. by s. 15 of Income-tax and E. P. T. (Amendment) Act, 1947 (XXII of 1947).

<sup>4</sup> Section 15 deals with exemption in the case of life insurance.

<sup>5</sup> The words "and super-tax" were omitted by s. 5 of the Income-tax Law (Amendment) Act, 1940 (XII of 1940).

<sup>6</sup> Section 21 deals with submission of Annual Return.

**58V. Particulars to be furnished in respect of Superannuation Funds.—**

The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice—

(a) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require;

(b) prepare and deliver to the Income-tax Officer a return containing—

(i) the name and place of residence of every person in receipt of an annuity from the fund;

(ii) the amount of annuity payable to each annuitant;

(iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees; and

(iv) particulars of sum paid in commutation or in lieu of annuities;

(c) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have\*been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require.]

### **CREATION OF IRREVOCABLE TRUST FOR THE PURPOSES OF PAYING GRATUITY TO THE RETIRING EMPLOYEES<sup>1</sup>**

It has been brought to the notice of the Board that as a result of the award by Industrial Courts, textile mills are now compelled to pay their retiring employees gratuities at the following rates:—

(1) On the death of an employee while in service:—

One month's salary for each year of service subject to a maximum of 15 months' salary to be paid to the deceased employee's heirs or executors or nominees.

(2) On voluntary retirement or resignation of an employee:—

After 15 years' continuous service with the employer, 15 months salary.

(3) On termination of an employee's service:—

(a) after continuous service for 10 years but less than 15 years,  $\frac{2}{3}$ th of one month's salary for each year of service.

(b) after 15 years continuous service, 15 months' salary.

It is also understood that the above award applies not only to future employees but also to the past, present and future services of employees who are already in service.

2. Certain employers are now contemplating the creation of Gratuity Funds so as to make provision for the gratuities referred to above. Under the present Income-tax law, no amount set apart by way of reserve for gratuity (or for any other purpose) can be allowed as a deduction in computing the profits for income-tax purposes, but the actual payment of gratuity can be allowed as and when paid, provided that the employer makes adequate arrangements for deduction and payment of tax from the gratuities.

3. Unlike the provisions in the Income-tax Act relating to recognition of Provident Funds or approval of Superannuation Funds there is no provision for approving any other type of funds, but section 10(4) of the Act provides that no allowance shall be made in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payment made from the fund which are taxable under the head "Salaries". It would, therefore, appear that the said section contemplates that contributions by employers, to funds other than recognised provident funds or approved superannuation funds or provident funds to which the Provident Funds Act of 1925 applies, can be considered as an admissible deduction provided that the essential condition (but not necessarily the only condition) referred to in section 10(4) is satisfied.

<sup>1</sup> Issued by the Central Board of Revenue, Government of India, under Circular No. 70 (XI-3) of 1951 dated 3rd November, 1951 for allowances in assessing income reserve set apart by employer for paying gratuity to retiring employees.

The Board consider that if a Gratuity Fund is constituted into an irrevocable trust for the benefit of the employees, the contributions made to the fund, subject to the rules thereof being acceptable to the income-tax authorities, should be allowable as a deduction in the employer's income-tax assessments.

4. The rules to be framed for such a fund must, however, incorporate the following, among other, specific provisions namely that:—(1) the benefit of the Fund shall be open to only those persons who are wholtime *bona fide* employees of the employers, having no substantial shareholding interest; (2) the trust money shall be invested in such trustee securities as are payable both as regards capital and interest in India; (3) the gratuity shall be made payable and shall be paid only in India; (4) the trustees shall be responsible for deduction of tax from the gratuities and crediting the tax so deducted to the Government revenue; (5) no amendment of the rules of the fund shall be made without the approval of Central Board of Revenue; (6) the contributions shall be made on a reasonable basis acceptable to the Income-tax Department, i.e., either on actuarial basis or on any other basis having regard to the length of service of each employee concerned; (7) so much of the contributions as cannot properly be treated as ordinary annual contributions shall be treated by the Commissioner of Income-tax in the same manner as is adopted by the Central Board of Revenue to deal with similar contributions to an approved superannuation fund.

5. As stated above, there is no question of any formal approval of any Gratuity Fund as such under the law. All that the employers want, however, is that the rules of the Gratuity Funds being found satisfactory, the contributions made by the employers should be allowed as a deduction in computing their profits. The Board have given careful consideration to this request and have decided that if the rules of a Gratuity Fund, duly constituted under an irrevocable trust, satisfy the conditions laid down in paragraph 4 above, the contributions made by the employers may be allowed as a deduction in their income-tax assessment. The rules need not be forwarded to the Central Board of Revenue for "approval". The Commissioner concerned should, after going through the rules in each case, issue necessary instructions to the Income-tax Officer.

6. The manner of arriving at the tax relief in respect of the "initial contribution" will be as indicated in the illustration of the hypothetical case given below:—

1. The employees in respect of whom the extraordinary contribution is made are say, A. B. and C.
2. The earliest year when any of them was in the employer's service is say, 1938.
3. The extraordinary contribution in question is say, Rs. 9,000 made in 1943.
4. Aggregate salaries:—

		1938	1939	1940	1941	1942	
A:	Rs.	1,000	1,000	1,000	1,000	1,000	
B:	Rs.	Nil	1,000	1,000	1,000	1,000	
C:	Rs.	Nil	Nil	1,000	1,000	1,000	
	Rs.	1,000	2,000	3,000	3,000	3,000	Total 12,000

5. Allocation according to assessment years.	1939-40	1940-41	1941-42	1942-43	1943-44	
	1/12 of 9,000	2/12 of 9,000	3/12 of 9,000	3/12 of 9,000	3/12 of 9,000	
	Rs. 750	1,500	2,250	2,250	2,250	Total 9,000

6. Income-tax and Super-tax rate. 42 pies 45.5 pies 56 pies 63 pies 74 pies ...

7. Tax relief Rs. 164-1-0 355-7-0 656-4-0 738-4-0 867-3-0 Total 2,781-3-0

This relief will be allowed wholly in the year of assessment in respect of the year in which such initial contribution is made.

# INDIAN TRUSTS ACT, 1882 (II OF 1882) (EXTRACTS)

## Arrangement of Sections

### CHAPTER I—PRELIMINARY

1. Short title, commencement, local extent.
3. Interpretation clause.

### CHAPTER III—OF THE DUTIES AND LIABILITIES OF TRUSTEES

19. Accounts and information.
20. Investment of trust-money.
- 20A. Power to purchase redeemable stock at a premium.
30. Indemnity of trustee.

### CHAPTER IV—OF THE RIGHTS AND POWERS OF TRUSTEES

31. Right to title-deed.
32. Right to reimbursement of expenses.
36. General authority of trustee.

# INDIAN TRUSTS ACT, 1882 (II OF 1882) (EXTRACTS)

*An Act to define and amend the law relating to Private Trusts and Trustees.*

[13th January 1882]

*Preamble.*—Where it is expedient to define and amend the law relating to private trusts and trustees; it is hereby enacted as follows:—

### CHAPTER I—PRELIMINARY

1. **Short title; commencement.**—This Act may be called the Indian Trusts Act, 1882 and it shall come into force on the first day of March, 1882.

*Local extent.*—<sup>1</sup>[It extends to the <sup>2</sup>[the whole of India, <sup>3</sup>[except the State of Jammu and Kashmir].

\* \* \* \*

3. **Interpretation clause**—“**trust**”: “**trustee**”: “**beneficiary**”: “**trust-property**”: “**instrument of trust**”.—A “trust” is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner: the person who accepts the confidence is called the “trustee”: the person for whose benefit the confidence is accepted is called the “beneficiary”: the subject matter of the trust is called “trust-property” or “trust-money” and the instrument, if any, by which the trust is declared is called the “instrument of trust.”

### CHAPTER III—OF THE DUTIES AND LIABILITIES OF TRUSTEES

19. **Accounts and information.**—A trustee is bound (a) to keep clear and accurate accounts of the trust-property, and (b) at all reasonable times, at the request of the beneficiary to furnish him with full and accurate information as to the amount and state of the trust-property.

20. **Investment of trust-money.**—Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the

<sup>1</sup> Subs. by the A. O. 1948 for the former paragraph.

<sup>2</sup> Subs. by the A. O. 1950 for “all the Provinces of India except.”

<sup>3</sup> Subs. by Act III of 1951, s. 3 and Sch., for “except Part B States.”

trust, the trustee is bound (subject to any direction contained in the instrument of trust) to invest the money on the following securities, and on no others:—

(a) in promissory notes, debentures, stock or other securities <sup>4</sup>[of any <sup>5</sup>[State Government] or] of the <sup>6</sup>[Central Government], or of the United Kingdom of Great Britain and Ireland;

<sup>7</sup>[Provided that securities, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such Government, shall be deemed, for the purposes of this clause, to be securities of such Government.]

(b) in bonds, debentures and annuities <sup>8</sup>[charged or secured by the <sup>9</sup>[Parliament of the United Kingdom] <sup>10</sup>[before the fifteenth day of August, 1947], on the revenues of India or of the <sup>11</sup>[Governor-General in Council] or of any <sup>12</sup>[State].

<sup>13</sup>[Provided that, after the fifteenth day of February, 1916, no money shall be invested in any such annuity being a terminable annuity unless a sinking fund has been established in connection with such annuity; but nothing in this proviso shall apply to investments made before the date aforesaid];

<sup>14</sup>[(bb) in India three and a half per cent. stock, India three per cent. stock, India two and a half per cent. stock or any other capital stock, <sup>15</sup>[which before the 15th day of August 1947 was issued by the Secretary of State for India in Council under the authority of an Act of Parliament <sup>16</sup>[of the United Kingdom] and charged on the revenues of India] <sup>17</sup>[or which <sup>18</sup>[was] issued by the Secretary of State on behalf of the Governor-General in Council under the provisions of Part XIII of the Government of India Act, 1935];

(c) in stock or debentures of, or shares in, Railway or other Companies the interest whereon shall have been guaranteed by the Secretary of State for India in Council <sup>14</sup>[or by the <sup>19</sup>[Central Government]] <sup>20</sup>[or in debentures of the Bombay <sup>21</sup>[Provincial] Co-operative Bank Limited, the interest whereon shall have been guaranteed, by the Secretary of State for India in Council <sup>17</sup>[or the <sup>22</sup>[State] Government of Bombay];

<sup>23</sup>[(d) in debentures or other securities for money issued, under the authority of <sup>24</sup>[any Central Act or <sup>25</sup>[Provincial Act or State Act], or on behalf of any

<sup>4</sup> Ins. by s. 2 and Sch. I of Act 31 of 1920.

<sup>5</sup> Subs. by the A. O. 1950 for "Provincial Government."

<sup>6</sup> Subs. by the A. O. 1937 for "Government of India."

<sup>7</sup> Added by the Act 18 of 1934, s. 2.

<sup>8</sup> Subs. by A. O. 1937 for "charged by the Imperial Parliament on the revenues of India."

<sup>9</sup> Subs. by the A. O. 1950 for "Imperial Parliament."

<sup>10</sup> Subs. by the A. O. 1948.

<sup>11</sup> Subs. for "Federation", *ibid.*

<sup>12</sup> Subs. by the A. O. 1950 for "Province."

<sup>13</sup> Added by Act 1 of 1916, s. 2.

<sup>14</sup> Ins. by Act 1 of 1916, s. 2.

<sup>15</sup> Subs. by the A. O. 1950 for "which may at any time hereafter be".

<sup>16</sup> Ins. by the A.O. 1950.

<sup>17</sup> Ins. by the A. O. 1937.

<sup>18</sup> Subs. by the A.O. 1950 for "may be".

<sup>19</sup> Subs. by the A.O. 1937 for "Government of India".

<sup>20</sup> Ins. by Act 21 of 1917, s. 2.

<sup>21</sup> Subs. by Act 37 of 1925, s. 2 and Sch. 1 for "Central".

<sup>22</sup> Subs. by the A.O. 1950 for "Provincial".

<sup>23</sup> Subs. by Act 3 of 1908, s. 2 for the former clause.

<sup>24</sup> Subs. by the A.O. 1948 for "any Act".

<sup>25</sup> Amended consecutively by the A.O. 1948, A.O. 1950 and s. 3 and Sch. of Act III of 1951. The original words were "Act of a Legislature established in British India".



municipal body, port trust or city improvement trust in any Presidency town, or in Rangoon Town, or by or on behalf of the trustees of the port of Karachi];

<sup>26</sup>[Provided that after the 31st day of March, 1948, no money shall be invested in any securities issued by or on behalf of a municipal body, port trust or city improvement trust in Rangoon town, or by or on behalf of the trustees of the port of Karachi]: ;

(e) on a first mortgage of immovable property situate in <sup>27</sup>[any part of the territories to which this Act extends]: Provided that the property is not a lease hold for a term of years and that the value of the property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the mortgage-money; or

(f) on any other security expressly authorized by the instrument of trust, or by any rule which the High Court may from time to time prescribe in this behalf;

Provided that, where there is a person competent to contract and entitled in possession to receive the income of the trust-property for his life, or for any greater estate, no investment on any security mentioned or referred to in clauses (d), (e), and (f) shall be made without his consent in writing.

<sup>28</sup>[20A. Power to purchase redeemable stock at a premium.—(1) A trustee may invest in any of the securities mentioned or referred to in section 20, notwithstanding that the same may be redeemable and that the price exceeds the redemption value:

Provided that a trustee may not purchase at a price exceeding its redemption value any security mentioned or referred to in clauses (c) and (d) of section 20 which is liable to be redeemed within fifteen years of the date of purchase at par or at some other fixed rate, or purchase any such security as is mentioned or referred to in the said clauses which is liable to be redeemed at par or at some other fixed rate at a price exceeding fifteen per centum above par or such other fixed rate.

(2) A trustee may retain until redemption any redeemable stock, fund or security which may have been purchased in accordance with this section.

\* \* \* \*

**30. Indemnity of trustee.**—Subject to the provisions of the instrument of trust and of sections 23<sup>29</sup> and 26<sup>30</sup>, trustees shall be respectively chargeable only for such moneys, stocks, funds and securities as they respectively actually receive and shall not be answerable the one for the other of them, nor for any banker, broker or other person in whose hands any trust-property may be placed, nor for the insufficiency or deficiency of any stocks, funds or securities, nor otherwise for involuntary losses.

#### CHAPTER IV.—OF THE RIGHTS AND POWERS OF TRUSTEES

**31. Right to title-deed.**—A trustee is entitled to have in his possession the instrument of trust and all the documents of title (if any) relating solely to the trust property.

**32. Right to reimbursement of expenses.**—Every trustee may reimburse himself or pay or discharge out of the trust-property, all expenses properly incurred

<sup>26</sup> Ins. by the A.O. 1948.

<sup>27</sup> Subs. by Act III of 1951 (s. 3 and Sch.) for "a Part A State or a Part C State which was subs. by the A.O. 1950 for "Province of India.".

<sup>28</sup> Ins. by Act I of 1916, s. 3.

<sup>29</sup> Section 23 deals with the liability of the trustees for breach of trust.

<sup>30</sup> Section 26 deals with non-liability for co-trustee's default.

in or about the execution of the trust, or the realization, reservation or benefit of the trust-property, or the protection or support of the beneficiary.

\*

**36. General authority of trustee.**—In addition to the powers expressly conferred by this Act and by the instrument of trust, and subject to the restrictions, if any, contained in such instrument, and to the provisions of section 17,<sup>81</sup> a trustee may do all acts which are reasonable and proper for the realization, protection or benefit of the trust-property, and for the protection or support of a beneficiary who is not competent to contract.

## ESTATE DUTY ACT, 1953 (XXXIV OF 1953) (EXTRACTS)

### Arrangement of Sections

#### PART I—PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

#### PART IV—AGGREGATION OF PROPERTY AND RATES OF DUTY

35. Rates of estate duty on property including agricultural land.

#### PART VII—COLLECTION OF THE DUTY

51. Method of collection of duty.
52. Payment of duty may be accepted in prescribed Government securities.
53. Persons accountable, and their duties and liabilities.
56. Penalty for default.
58. Estate duty when due and how and when to be collected.
60. Duty to be paid or security for payment furnished on delivery of account and certificate to be granted thereupon.

#### PART VIII—CHARGE OF ESTATE DUTY ON PROPERTY AND FACILITIES FOR RAISING IT

74. Estate duty a first charge on property liable thereto.
- SCHEDULES.

## ESTATE DUTY ACT, 1953 (XXXIV OF 1953) (EXTRACTS)

*An Act to provide for the levy and collection of an estate duty.*

[6th October, 1953]

Be it enacted by Parliament as follows:—

#### PART I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Estate Duty Act, 1953.  
 (2) It extends to the whole of India except the State of Jammu and Kashmir.  
 (3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.
2. **Definitions.**—In this Act, unless the context otherwise requires—

<sup>81</sup> Section 17 lays down that the Trustee should be impartial.

<sup>1</sup> 15th October, 1953, *vide* Ministry of Finance (Revenue Division) Notification No. S. R. O. 1882 dated the 8th October, 1953.

(2) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924);

\* \* \* \*

(5) "Controller" means a person appointed to be a Controller of Estate Duty under section 4 and includes a person appointed to be a Deputy Controller of Estate Duty or an Assistant Controller of Estate Duty;

(6) "deceased person" and "the deceased" mean a person dying after the commencement of this Act;

(7) "estate duty" means estate duty under this Act;

\* \* \* \*

(15) "property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale and also includes any property converted from one species into another by any method;

#### PART IV—AGGREGATION OF PROPERTY AND RATES OF DUTY

**35. Rates of estate duty on property including agricultural land.**—(1) The rates of estate duty shall be as mentioned in the Second Schedule:

Provided that no such duty shall be levied upon—

\* \* \* \*

(b) property of any other kind, to the extent to which the principal value of the estate does not exceed rupees one lakh.

#### PART VII —COLLECTION OF THE DUTY

**51. Method of collection of duty.**—Estate duty may be collected by such means and in such manner as the Board may prescribe.

**52. Payment of duty may be accepted in prescribed Government securities.**—The Board may prescribe that Government securities shall be accepted in payment of estate duty on such terms as it thinks fit.

**53. Persons accountable, and their duties and liabilities.**—(1) Where any property passes on the death of the deceased—

\* \* \* \*

(b) every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested,

\* \* \* \*

shall be accountable for the whole of the estate duty on the property passing on the death but shall not be liable for any duty in excess of the assets of the deceased which he actually received or which, but for his own neglect or default, he might have received;

\* \* \* \*

(3) Every person accountable for estate duty under the provisions of this section shall, within six months of the death of the deceased or such later time as the Controller may allow, deliver to the Controller and verify to the best of his knowledge and belief, an account of all the property in respect of which estate duty is payable.

\* \* \* \*

**56. Penalty for default.**—Any person who without reasonable cause has failed to comply with the provisions of section 53 or section 55<sup>2</sup> or has failed to comply with the said provisions within the time allowed, shall be liable to pay a penalty of one thousand rupees or a sum equal to double the amount of estate duty, if any, remaining unpaid for which he is accountable, according as the Controller may direct:

Provided that the Controller may reduce the penalty in any particular case.

\* \* \* \*

**58. Estate duty when due and how and when to be collected.**—(1) Estate duty shall be due from the date of the death of the deceased and shall be collected upon the account delivered under section 53 or clause (a) of section 57<sup>3</sup> or the account prepared under sub-section (2) of section 61.

\* \* \* \*

**60. Duty to be paid or security for payment furnished on delivery of account and certificate to be granted thereupon.**—Upon delivery of the account under section 53 or clause (a) of section 57<sup>3</sup> the person delivering it shall pay to the Controller, or furnish security to the satisfaction of the Controller for the payment of, the estate duty, if any, payable in respect of the property included in the account, and the Controller shall thereupon grant him a certificate that such duty has been or will be paid, or that none is due, as the case may be.

## PART VIII.—CHARGE OF ESTATE DUTY ON PROPERTY AND FACILITIES FOR RAISING IT

**74. Estate duty a first charge on property liable thereto.**—(1) Subject to the provisions of section 19<sup>4</sup>, the estate duty payable in respect of property, movable or immovable, passing on the death of the deceased, shall be a first charge on the immovable property so passing (including agricultural land) in whomsoever it may vest on his death after the debts and the incumbrances allowable under Part VI<sup>5</sup> of this Act; and any private transfer or delivery of such property shall be void against any claim in respect of such estate duty.

### THE FIRST SCHEDULE—(See section 5<sup>6</sup>).

#### *States in which estate duty is leviable on agricultural land*

Bombay.	Hyderabad.
Madhya Pradesh.	Madhya Bharat.
Orissa.	Rajasthan.
Punjab.	Saurashtra.
Uttar Pradesh.	All Part C States.

<sup>2</sup> Section 55 requires that every person believed to be in possession of property should deliver statement of particulars of property as required by the Controller.

<sup>3</sup> Sec. 57 requires executor to specify all chargeable property with affidavit of valuation.

<sup>4</sup> Sec. 19 deals with collection and incidence of duty on property transferred to a controlled company.

<sup>5</sup> Part VI deals with deductions allowable under the Act.

<sup>6</sup> Section 5 deals with the levy of estate duty.

THE SECOND SCHEDULE—(See sections 5<sup>6</sup>, 35 and 84<sup>7</sup>).*Rates of Estate Duty*

## PART I

In the case of property which consists of an interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law:—

	<i>Rate of Duty</i>
(1) on the first Rs. 50,000 of the principal value of the estate	Nil
(2) on the next Rs. 50,000       "       "	5 per cent.
(3) on the next Rs. 50,000       "       "	7½   "
(4) on the next Rs. 50,000       "       "	10   "
(5) on the next Rs. 1,00,000   "       "	12½   "
(6) on the next Rs. 2,00,000   "       "	15   "
(7) on the next Rs. 5,00,000   "       "	20   "
(8) on the next Rs. 10,00,000   "       "	25   "
(9) on the next Rs. 10,00,000   "       "	30   "
(10) on the next Rs. 20,00,000   "       "	35   "
(11) on the balance of the principal value of the estate	40   "

## PART II

In the case of property of any other kind—

	<i>Rate of Duty</i>
(1) on the first Rs. 1,00,000 of the principal value of the estate	Nil
(2) on the next Rs. 50,000       "       "	7½ per cent.
(3) on the next Rs. 50,000       "       "	10   "
(4) on the next Rs. 1,00,000   "       "	12½   "
(5) on the next Rs. 2,00,000   "       "	15   "
(6) on the next Rs. 5,00,000   "       "	20   "
(7) on the next Rs. 10,00,000   "       "	25   "
(8) on the next Rs. 10,00,000   "       "	30   "
(9) on the next Rs. 20,00,000   "       "	35   "
(10) on the balance of the principal value of the estate	40   "

## ESTATE DUTY RULES, 1953 (EXTRACTS)

## Arrangement of Paragraphs

1. Short title and commencement.

## PART I—PRELIMINARY

2. Definitions.

## PART VIII—PAYMENT OF DUTY

17. Calculation and adjustment of duty.

## INFORMATION TO BE FURNISHED BY PROVIDENT FUNDS AND SUPERANNUATION FUNDS

37. Particulars to be furnished by a Provident Fund or a Superannuation Fund in the case of the death of a member participating in the Fund.

<sup>7</sup> Under section 84, a company incorporated in or outside India should furnish particulars of deceased members to the Controller.

## ESTATE DUTY RULES, 1953 (EXTRACTS)<sup>1</sup>

In exercise of the powers conferred by sub-section (1) of section 85 of the Estate Duty Act, 1953 (XXXIV of 1953), the Central Board of Revenue hereby makes the following rules, the same having been previously published as required by sub-section (1) of section 85 of the said Act.

1. **Short title and commencement.**—(1) These rules may be called the Estate Duty Rules, 1953.

(2) They shall be deemed to have come into force on the 15th October, 1953.

### PART I—PRELIMINARY

2. **Definitions.**—In these Rules unless the context otherwise requires—

- (a) "the Act" means the Estate Duty Act, 1953 (XXXIV of 1953);
- (b) "accountable person" means any person accountable for the delivery of an account or payment of duty under the provisions of the Act;
- (c) "duty" means estate duty leviable under the Act;
- (d) "Income-tax Act" means the Indian Income-tax Act, 1922 (XI of 1922);
- (e) "India" means the territories of India excluding the State of Jammu and Kashmir.

\* \* \* \*

### PART VIII—PAYMENT OF DUTY (Section 51)

17. **Calculation and adjustment of duty.**—Duty shall, in the first instance, be calculated at the proper rate according to the principal value of the estate as set forth in the account delivered under section 53 or clause (a) of section 57 or prepared under sub-section (2) of section 61 of the Act but if, afterwards it is found that for any reason too little duty has been paid, the additional duty shall be payable and be treated as duty in arrear subject to the conditions specified in sub-section (2) of section 62 of the Act.

### <sup>2</sup>[INFORMATION TO BE FURNISHED BY PROVIDENT FUNDS AND SUPERANNUATION FUNDS]

37. **Particulars to be furnished by a Provident Fund or a Superannuation Fund in the case of the death of a member participating in the Fund.**—Where the Trustees of any Provident Fund or of any Superannuation Fund, the accounts of which are not maintained by an Accounts Officer of the Central or any State Government, come to know of the death of the member participating in such Fund and where the lump sum payment or the commuted value of the benefits payable on account of participation in the Fund exceeds Rs. 10,000, the Trustees shall, within one month of the receipt of such knowledge, furnish the following particulars to the Assistant Controller or Deputy Controller of Estate Duty for the time being exercising the functions of the Income-tax Officer in respect of such Fund, namely:—

- (i) the name and description of the Fund;
- (ii) the name and address of the deceased member participating in the Fund;
- (iii) (a) in the case of a Provident Fund, the amount lying to the credit of the deceased on the date of his death; (b) in the case of a Superannuation Fund, any annuity, pension or lump sum payable under the Rules of the Fund with the detailed schemes thereof;
- (iv) the names and addresses of the Trustees, Administrators or other legal representatives of the deceased, if known;
- (v) the names and addresses of the persons to whom the amounts mentioned in item (iii) is payable or paid.]

<sup>1</sup> These Rules were published under the Central Board of Revenue (Estate Duty) Notification No. S.R.O. 556 dated the 13th February, 1954 in Gazette of India Extraordinary, 1954, Part II—Sec. 3, p. 137.

<sup>2</sup> The heading and rule 37 were inserted by the Central Board of Revenue (Estate Duty) Notification No. S.R.O. 289 dated the 1st February, 1956, vide Gazette of India, 1956, Part II—Sec. 3, p. 155.

<sup>3</sup>[*Explanatory Note.*—This Note is not part of the rules or amendments but is intended to indicate their general purport.]

The particulars furnished under the new rule 37 will enable the Controller to make necessary enquiries to find out whether the estate of the deceased is liable to estate duty.

Trustees of Provident Funds and Superannuation Funds are also persons accountable under Section 53(1)(b) of the Estate Duty Act for estate duty in respect of the sums standing to the credit of the deceased member participating in the Fund. Before paying the amount to the legal heirs of the deceased, the Trustees would, therefore, insist in appropriate cases, on the production of a certificate from the Controller to the effect that the duty has been paid or will be paid or that none is due as the case may be. The particulars furnished under this rule would also ensure prompt action on the part of the Controller to settle the estate duty liability of the deceased.]

### **LIABILITY OF TRUSTEES OF PROVIDENT FUNDS UNDER SECTION 53 (1) (b) OF THE ESTATE DUTY ACT, 1953<sup>1</sup>**

Under Section 53(1)(b) of the Estate Duty Act, 1953, the Trustees of a Provident or Superannuation Fund fall within the category of accountable persons and are therefore liable for estate duty on the property passing on the death of a subscriber to the Fund to the extent of the amount standing to the credit of the deceased subscriber.

As a safeguard against any possible liability for estate duty under the above provision it was considered that the best course for the trustees of such funds was to obtain from the nominee or other legal heir of the deceased subscriber a certificate to the effect that no estate duty is payable or that the duty has been or will be paid in respect of the property so passing. But representations have been made to the Central Board of Revenue from time to time by various organisations urging that the enforcement of this procedure in all cases regardless of the amount payable, would cause unnecessary hardship to nominees and heirs of deceased subscribers whose total estate was not likely to attract estate duty, and that the trustees should in such cases be exonerated from any liability if they made payment without calling for the estate duty certificate, provided the amount standing to the credit of the deceased subscriber did not exceed a certain limit or alternatively duty at the maximum rate be deducted at source before making any such payment.

Since the liability of the trustees is fixed by statute, the Board do not consider it feasible to lay down any particular limit for such payments below which the trustees would not be held liable as accountable persons. The trustees of the fund are well-situated to know the probable extent and value of the estate of a deceased subscriber and if they feel that deceased's estate would not be liable to estate duty, there is no bar to their making payment out of the fund. In any case, it is for them to exercise discretion as to whether a discharge certificate should be insisted upon in any particular case before payment is made to the deceased's heirs or nominees. In the case of a deceased wage earner however, where the total amount standing to his credit is less than Rs. 5,000/-, the only assurance the Government can give is that if the trustees make payment without awaiting an exemption certificate and if duty is found to be ultimately payable in such a case, the Department would in the first instance attempt to collect the duty from the other property left behind by the deceased subscriber. This, by the way is merely a procedural clarification; the statutory liability of the trustees remain undisturbed.

There is no provision either in the Estate Duty Act or in the Estate Duty Rules which authorises the deduction of duty at source from payments made out of a fund. It is therefore for the trustees to consider whether before making payments in any particular case they should keep back some amount for any future liability for estate duty which they might be called upon to discharge as accountable persons.

<sup>3</sup> Inserted by Notification No. S.R.O. 289 dated 1st February, 1956.

<sup>1</sup> Issued by the Central Board of Revenue, Government of India, New Delhi under Circular No. 2 of 1956 dated the 21st February, 1956.

# INDUSTRIAL STATISTICS LEGISLATION





## INDUSTRIAL STATISTICS LEGISLATION

### Collection of Industrial Statistics

The Royal Commission on Labour in India strongly recommended the necessity of enacting legislation for collection of industrial statistics in India. The quality and nature of reliable information in regard to the progress of industries and of labour conditions were inadequate. The matter was considered at the eleventh session of the Industries Conference in 1939 and also at the Second Conference of Labour Minister in 1940 and the collection of statistics relating to industries and labour was thought necessary and desirable.

The Central Government took the initiative of enacting the Industrial Statistics Act in 1942 (XIX of 1942) though the Government of Madhya Pradesh took the lead in passing similar legislation in 1939.

### Industrial Statistics Act, 1942 (XIX of 1942)

The Act extends to the whole of India except the State of Jammu and Kashmir. It is designed to enable State Governments to collect informations and to frame rules for the purpose. It provides for the collection of statistics relating to factories and conditions of life and work of the workers, commodity prices, regularity of attendance, living conditions, rent of dwelling houses, workers' indebtedness, wages and hours of work, particulars of provident funds, benefits and amenities provided for labour, returns of employment and unemployment and industrial disputes. It aims at giving greater degree of uniformity in the collection of statistics than had hitherto been possible. The Act empowers the State Governments to make rules and the Central Government to give direction to the State Governments for securing uniformity in the procedure and in the method to be adopted in collecting informations.

The State Governments have appointed Statistics Authorities and the Central Government has appointed a Director of Industrial Statistics to co-ordinate the work in connection with the implementation of collection of statistics relating to factories.

### Statutory Collection of Statistics

The Standing Labour Committee in the fifth meeting held in June, 1944 proposed that in view of the unsatisfactory procedure for collection of statistics relating to trade disputes, the machinery provided under the Industrial Statistics Act of 1942 should be utilised with a view to improve the existing statistics and in order to have uniformity in the method of compilation. The Central Government drafted rules and forms and circulated them to the State Governments and employers' and workers' organisations.

The Central Government decided to utilise the Act for collection of statistics relating to labour problems and necessary forms were drafted and the matter was discussed in the ninth session of the Indian Labour Conference held in April, 1948.

### Census of Manufacturing Industries Rules

Under the directions of the Central Government, the Census of Manufacturing Industries Rules were framed by the different State Governments, providing for collection of annual statistics relating *inter alia* to capital structure, production costs and out-turn in respect of 29 industries. In addition to these industries, 34 industries have been covered on a sample basis for the years 1949 to 1951 and this sample enquiry is being conducted by the National Sample Survey Organisation of the Central Government.

### **Industrial Statistics (Labour) Rules**

The Central Government framed the Model Industrial Statistics (Labour) Rules for quarterly collection of statistics on employment, attendance, absenteeism, involuntary unemployment, hours of work and earnings of workers in respect of factories covered under the Factories Act, 1948, plantation, tramways and ports. The Model Rules were sent to the State Governments with statutory directions for adoption. All the States have not yet finalised the rules, but some of the States like West Bengal after publishing the final rules in the Official Gazettes, have started collection of returns.

### **Industrial Statistics (Industrial and Labour Disputes) Rules**

The Central Government have also framed draft rules called the Industrial Statistics (Industrial and Labour Disputes) Rules for collecting statistics of industrial disputes. The draft rules were published by some of the State Governments. Only a very few State Governments like West Bengal have finalised the rules.

### **Collection of Statistics Act, 1953 (XXXII of 1953)**

The Central Government had very limited legal power to collect statistical data on various subjects particularly in the industrial and commercial field. Voluntary co-operation of the interests concerned have not been satisfactory in all cases. To put the matter on a regular basis, the Minister of Commerce and Industries introduced the Collection of Statistics Bill in the Parliament on the 12th December, 1952 to facilitate the collection of statistics of certain kinds relating to industries, trade and commerce.

The Act repeals and re-enacts the Industrial Statistics Act, 1942 with alterations and enlarged scope. The Act received the assent of the President on the 18th September, 1953; but it has not yet been brought into force by the Central Government.

The Act provides for collection of statistics in respect of matters relating to any industry or class of industries or any commercial or industrial concern or class of commercial or industrial concerns, particularly any matter relating to factories and also for calling for certain matters relating to welfare of labour and conditions of labour, *viz.* (1) price of commodities; (2) attendance; (3) living conditions including housing, water supply and sanitation; (4) indebtedness; (5) rents of dwelling houses, (6) wages and other earnings; (7) provident fund and other funds provided for labour; (8) benefits and amenities provided for labour; (9) hours of work; (10) employment and unemployment; (11) industrial and labour disputes; (12) labour turnover and (13) trade unions.

The Act authorises the Central Government to start collection of statistics in the States on its own and to appoint Statistics Authority for this purpose, apart from giving directions to the State Governments to carry into execution the provisions of the Act in the States. The Act provides for punishment for offences committed by companies to the extent of Rs. 500/- which is same as in the case of an individual.

### **Collection of Statistics (Labour) Rules under Collection of Statistics Act**

The question of implementation of the Industrial Statistics (Labour) Rules was discussed in the thirteenth session of the Indian Labour Conference held in January, 1954. The Central Labour Minister stressed the need and urgency of collection of statistics for formulation of the labour policy.

In September, 1955, the Central Government forwarded to the State Governments and employers' and workers' organisations, Draft Model Collection of

Statistics (Labour) Rules framed in the light of the provisions of the Collection of Statistics Act, 1953 which would replace the Industrial Statistics (Labour) Rules framed in 1951 under the Industrial Statistics Act, 1942. The draft does not reveal any material changes from the Industrial Statistics (Labour) Rules. It prescribes the period within which the Statistics Authority shall serve a notice on the owner of a factory requiring him to furnish the quarterly returns relating to employment, hours of work and earnings and the period within which such informations have to be furnished by him.

#### **Draft Collection of Statistics Rules, 1956<sup>1</sup>**

The Central Government in the Ministry of Commerce and Industry have re-published the draft of the Collection of Statistics Rules, 1953 with forms under a notification No. 1774 dated the 4th August, 1956, for eliciting public opinion. The previous Draft Rules of 1953 were published under a notification dated the 19th October, 1953 without any form and have not so long been finalised. The new draft rules will come into force immediately on the commencement of the Act.

### **INDUSTRIAL STATISTICS ACT, 1942 (XIX OF 1942)**

#### **Statement of Objects and Reasons<sup>2</sup>**

It has been felt for some time, by both the Central and Provincial Governments, that the quantity and nature of reliable information in regard to the progress of industries and of labour conditions available to them has been inadequate and that steps should be taken to effect an improvement in the matter. It was realised that the most important step necessary was to provide for fuller compilation of industrial statistics. The limit of what could be achieved in this respect by relying merely on goodwill and the voluntary supply of information had been reached and legislation was therefore considered to be necessary. The matter was placed before the eleventh Industries Conference in December 1939 and the Conference of Labour Ministers held in January 1940. Both these bodies were of opinion that the collection of statistics relating to industries and labour was most desirable and recommended that the Central Government should undertake legislation on the subject. The scope of compilation, as in clause 3, has found unanimous acceptance by all the Provincial Governments and the Bill is designed to enable the Provincial Governments to collect information and to frame rules for the purpose. It is proposed that with a view to securing uniformity in the procedure and the method to be adopted in collecting information, directions may be issued by the Central Government under Section 126 (2) of the Government of India Act, 1935, where necessary.

### **INDUSTRIAL STATISTICS ACT, 1942 (XIX OF 1942)**

#### **Arrangement of Sections**

1. Short title, extent and commencement.
2. Definition.
3. Collection of statistics.
4. Appointment of statistics authority.
5. Power of statistics authority to call for returns and information.
6. Right of access to record or document.
7. Restriction on the publication of returns and information.
8. Penalties.
9. Penalty for improper disclosure of information or returns.
10. Cognizance of offences.
11. Power of the Central Government to give directions.
12. Power of State Governments to make rules.

<sup>1</sup> Gazette of India Extraordinary, 1956, Part II—Sec. 3, p. 1731.

<sup>2</sup> Gazette of India, 1942, Part V, Page 41.

# INDUSTRIAL STATISTICS ACT, 1942 (XIX OF 1942)<sup>1</sup>

*An Act to facilitate the collection of statistics of certain kinds relating to industries.*

[3rd April, 1942.]

Whereas it is expedient to facilitate the collection of statistics of certain kinds relating to industries:

It is hereby enacted as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Industrial Statistics Act, 1942.

(2) It extends to <sup>2</sup>[the whole of India <sup>3</sup>[except the State of Jammu and Kashmir].

(3) It shall come into force in a <sup>4</sup>[State] on such date as the <sup>5</sup>[State] Government may, by notification in the official Gazette, appoint in this behalf for such <sup>4</sup>[State].

**2. Definition.**—In this Act “prescribed” means prescribed in rules made under this Act or in any form prescribed by those rules.

**3. Collection of statistics.**—(1) The <sup>5</sup>[State] Government may, by notification in the official Gazette, direct that statistics shall be collected relating to any of the following matters, namely:—

(a) any matter relating to factories,

(b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely:—(i) prices of commodities, (ii) attendance, (iii) living conditions, including housing, water supply and sanitation, (iv) indebtedness, (v) rents of dwelling houses, (vi) wages and other earnings, (vii) provident and other funds provided for labour, (viii) benefits and amenities provided for labour, (ix) hours of work, (x) employment and unemployment, (xi) industrial and labour disputes,

and thereupon the provisions of this Act shall apply to the collection of those statistics.

(2) In clause (a) of sub-section (1), “factory” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934)<sup>6a</sup> or any premises deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of that Act.

**4. Appointment of statistics authority.**—The <sup>5</sup>[State] Government may appoint an officer to be the statistics authority for the purposes of the collection of any statistics under this Act.

**5. Power of statistics authority to call for returns and information.**—(1) The statistics authority may serve or cause to be served on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed, such information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1942, Part V, p. 41; see also p. 1273 ante.

<sup>2</sup> Subs. by the Adaptation of Laws Order, 1950, for “all the Provinces of India.”

<sup>3</sup> Subs. by the Part B States (Laws) Act, 1951 (3 of 1951), for “except Part B States”.

<sup>4</sup> Subs. by the Adaptation of Laws Order, 1950, for “Province”.

<sup>5</sup> Subs., *ibid.*, for “Provincial”.

<sup>6a</sup> See now the Factories Act, 1948 (LXIII of 1948).

(2) The notice referred to in sub-section (1) may be served by post.

**6. Right of access to record or document.**—The statistics authority or any person authorized by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Act.

**7. Restriction on the publication of returns and information.**—(1) No individual return, and no part of an individual return, made, and no information with respect to any particular undertaking given, for the purposes of this Act, shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or information was made or given, or his authorized agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

(2) Except for the purposes of a prosecution under this Act or under the Indian Penal Code (XLV of 1860), no person not engaged in connection with the collection of statistics under this Act shall be permitted to see any individual return or information referred to in sub-section (1).

**8. Penalties.**—If any person required to furnish any information or any return—

(a) wilfully refuses or without lawful excuse neglects to furnish such information or return as required under this Act, or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false, or

(c) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act, or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 6, he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence '[with a further fine]' which may extend to two hundred rupees for each day after the first during which the offence continues and in respect of false information, returns or answers the offence shall be deemed to continue until true information or a true return or answer has been given or made.

**9. Penalty for improper disclosure of information or returns.**—If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (XLV of 1860), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both imprisonment and fine.

**10. Cognizance of offences.**—No prosecution under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 9 shall be instituted except by or with the sanction of the '[State] Government.

**11. Power of the Central Government to give directions.**—The Central Government may give directions to a '[State] Government as to the carrying into execution of this Act in the '[State].

\* Subs. by Rep. and Amending Act, 1942 (25 of 1942), for "to a further fine."

† Subs. by the Adaptation of Laws Order, 1950, for "Provincial."

‡ Subs., *ibid.*, for "Province."

**12. Power of State Governments to make rules.**—(1) The '[State] Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section regulating the exercise of the right of access to documents and the right of entry conferred by section 6.

## COLLECTION OF STATISTICS ACT, 1953 (XXXII OF 1953)

### Statement of Objects and Reasons<sup>1</sup>

It has been felt that at present Government have very limited legal powers to collect statistics for the various subjects which are the concern of the Centre, particularly in the industrial and commercial field. It is also considered that the existing arrangements for getting trade statistics through the customs authorities and statistical data in respect of specific commodities under the relevant Acts, are also not very comprehensive. Accordingly, Government have largely to depend on the voluntary co-operation of the interests concerned in regard to the collection of statistical data from industrial concerns and business houses.

2. Recently, in order to assess the extent to which foreign owned and controlled firms engaged Indians and foreign nationals, a notification calling upon all undertakings to furnish the statistics was issued in all important English daily newspapers all over India. The response to the notification has not however been very satisfactory. Though Government can exert pressure to make certain firms submit returns, it is expedient that Government should be armed with powers to compel all concerns (including managing agency firms) engaged in (a) trade and commerce with foreign countries, (b) inter-State trade and commerce, (c) trading firms or corporations, incorporated, registered or otherwise permitted in India, including banking, insurance and other financial corporations, and (d) stock exchanges, to furnish such information.

3. The Bill, while replacing the Industrial Statistics Act, 1942 (XIX of 1942), is designed to incorporate all the existing provisions and to provide in addition for the collection of information and statistics in respect of matters related to items 41, 42, 43 and 48 in List I in the Seventh Schedule to the Constitution.

## COLLECTION OF STATISTICS ACT, 1953 (XXXII OF 1953)

### Arrangement of Sections

1. Short title, extent and commencement.
2. Definitions.
3. Collection of statistics.
4. Appointment of statistics authority.
5. Power of statistics authority to call for information or returns.
6. Right of access to records or documents.
7. Restrictions on the publication of information and returns.
8. Penalties.
9. Offences by companies.
10. Penalty for improper disclosure of information or returns.
11. Cognizance of offences.
12. Power of Central Government to give directions.
13. Protection of action taken in good faith.
14. Power to make rules.
15. Repeal.

<sup>1</sup> Gazette of India, 1952, Part II—Section 2, page 629.

# COLLECTION OF STATISTICS ACT, 1953 (XXXII OF 1953)<sup>1</sup>

*An Act to facilitate the collection of statistics of certain kinds relating to industries, trade and commerce.*

[18th September, 1953]

Be it enacted by Parliament as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Collection of Statistics Act, 1953.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) the Central Government, in relation to the collection of statistics under a direction issued by it under section 3, and

(ii) the State Government, in relation to the collection of statistics under a direction issued by it under that section;

(b) “commercial concern” means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in trade or commerce, and includes—

(i) a concern engaged in banking or insurance;

(ii) a financial corporation;

(iii) a concern engaged in shipping and navigation;

(iv) a concern engaged in the business of brokers dealing in shares, stocks and securities and commodities;

(v) a concern engaged in the business of advertising consultants;

(vi) a light railway;

(vii) a concern engaged in road transport service;

(viii) a concern engaged in air transport service;

(ix) a rubber, tea, coffee or cinchona plantation;

(x) a concern engaged in the business of forwarding and clearing agents;

(xi) any other concern which, in the opinion of the Central Government, is a commercial concern and is declared to be such by that Government by notification in the Official Gazette, but does not include an industrial concern;

(c) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948);

(d) “industrial concern” means a public limited company or a co-operative society or a firm or any other person or body of persons engaged in the manufacture, assembling, packing, preservation or processing of goods or in mining or in the generation or distribution of electricity or any other form of power;

(e) “owner” in relation to a commercial or an industrial concern means the person who, or the authority which has the ultimate control over the affairs of the concern, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the concern;

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<sup>1</sup> For Statement of Objects and Reasons, see the Gazette of India, Part II—Section 2, p. 629; see also p. 1276 ante. The Act has not been brought into force upto 15th Aug., 1956.



(f) "prescribed" means prescribed by rules made under this Act or in any form laid down by such rules.

**3. Collection of statistics.**—The appropriate Government may, by notification in the Official Gazette, direct that statistics shall be collected relating to any of the following matters, namely:—

- (a) any matter relating to any industry or class of industries;
- (b) any matter relating to any commercial or industrial concern or class of commercial or industrial concerns, and in particular, any matter relating to factories;
- (c) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely:—
  - (i) price of commodities;
  - (ii) attendance;
  - (iii) living conditions including housing, water supply and sanitation;
  - (iv) indebtedness;
  - (v) rents of dwelling houses;
  - (vi) wages and other earnings;
  - (vii) provident and other funds provided for labour;
  - (viii) benefits and amenities provided for labour;
  - (ix) hours of work;
  - (x) employment and unemployment;
  - (xi) industrial and labour disputes;
  - (xii) labour turnover;
  - (xiii) trade unions;

and thereupon the provisions of this Act shall apply in relation to those statistics:

Provided that—

- (a) nothing contained in this section shall be deemed to authorise a State Government to issue any direction under this Act with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I in the Seventh Schedule to the Constitution; or
- (b) where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of statistics by the Central Government remains to be completed; or
- (c) where a State Government has issued a direction under this section for the collection of statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of statistics by the State Government remains to be completed, except in cases where statistics have to be collected with reference to two or more States.

**4. Appointment of statistics authority.**—The appropriate Government may appoint an officer to be the statistics authority for the purpose of collecting any statistics directed by it to be collected.

**5. Power of statistics authority to call for information or returns.**—(1) The statistics authority may serve or cause to be served on the owner of an industrial or commercial concern or on any other person a notice requiring him to furnish such information or returns as may be prescribed relating to any matter in respect of which statistics are to be collected.

(2) The form in which, and the person to whom, or the authorities to which, such information or returns should be furnished, the particulars which they should contain and the intervals within which such information or returns should be furnished shall be such as may be prescribed.

(3) The notice referred to in sub-section (1) may be served by post.

**6. Right of access to records or documents.**—The statistics authority or any person authorised by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act and may enter at any reasonable time any premises where he believes such record or document to be and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

**7. Restriction on the publication of information and returns.**—(1) No information, no individual return and no part of an individual return with respect to any particular industrial or commercial concern, given for the purposes of this Act shall, without the previous consent in writing of the owner for the time being of the industrial or commercial concern in relation to which the information or return was given or made or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular concern.

(2) Except for the purposes of a prosecution under this Act or under the Indian Penal Code (Act XLV of 1860), no person who is not engaged in the collection of statistics under this Act shall be permitted to see any information or individual return referred to in sub-section (1).

**8. Penalties.**—If any person—

(a) required to furnish any information or return—

- (i) wilfully refuses or without lawful excuse neglects to furnish such information or return as may be required under this Act; or
- (ii) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or
- (iii) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6;

he shall for each such offence be punishable with fine which may extend to five hundred rupees and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues.

**9. Offences by companies.**—(1) If the person guilty of an offence under section 8 is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**10. Penalty for improper disclosure of information or returns.**—If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (Act XLV of 1860), he shall be punishable for such offence with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**11. Cognizance of Offences.**—No prosecution for an offence under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution for an offence under section 10 shall be instituted except by or with the consent of the appropriate Government.

**12. Power of Central Government to give directions.**—The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

**13. Protection of action taken in good faith.**—No suit or other legal proceeding shall lie against the appropriate Government, the statistics authority, or any other person acting under the authority of the appropriate Government or of the statistics authority in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or directions issued thereunder.

**14. Power to make rules.**—(1) The appropriate Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section for all or any of the following matters, namely:—

(a) the form and manner in which the information and returns may be furnished, the particulars which they should contain, the intervals within which and the authority to which such information and returns may be furnished;

(b) the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised; and

(c) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid, as soon as may be, before Parliament or, as the case may be, before the appropriate State Legislature.

**15. Repeal.**—The Industrial Statistics Act, 1942 (XIX of 1942), and the Hyderabad Collection of Statistics Act (No. 17 of 1357 Fasli) are hereby repealed.

# INDUSTRIAL HOUSING LEGISLATION



## INDUSTRIAL HOUSING LEGISLATION

### Housing of Industrial Labour

The provision for cheap, sanitary and adequate housing accommodation for industrial labour has been recognised as the most important problem which has a vital bearing on the welfare of the working class. Improved housing accommodation will undoubtedly improve the industrial efficiency, health and well-being of the industrial population in India. This problem has so long been neglected in India, neither the Government nor the local authorities, nor the employers have paid much attention to the problem of housing. Some of the employers, of course, have provided some sort of housing facilities to their workers; but in most cases the workers are left to find accommodation for themselves. The result is the growth of congested, over-crowded and insanitary slums around the industrial centres in India, which lack sufficient ventilation and lighting and which are unfit for human habitation and the workers are obliged to live in these slums. The *chawls* of Bombay, the *ahatas* of Cawnpore, the *cherries* of Madras and the *bustees* of Calcutta will bear eloquent testimony to the deplorable conditions in which the workers are compelled to live and these slums "out-slum many slums of the world".

### Indian Industrial Commission, 1919

The Indian Industrial Commission urged in 1919 the importance of improving the health and housing conditions of the industrial workers and recommended that the Local Governments should compulsorily acquire land on behalf of employers for housing their workers.

### Royal Commission on Labour in India, 1931

This deplorable nature of housing conditions of the workers, both in urban and industrial areas in India, was discussed by the Royal Commission on Labour in India in 1931. The Commission realised the importance of providing industrial housing in India and made several important recommendations regarding provision of better types of houses with adequate space, light, ventilation, drainage, latrines and sanitary arrangements. The Commission also specified different roles for the Central and Provincial Governments, municipalities and local boards, co-operative societies, employers' and workers' organisations.

The Commission recommended "that the Land Acquisition Act be so amended as to provide that the housing of labour shall be deemed to be a work likely to prove useful to the public and that the definition of "company" be so modified as to include industrial concerns owned by individuals or associations of individuals".

### Land Acquisition (Amendment) Act, 1933 (XVI of 1933)<sup>1</sup>

With a view to give effect to the Royal Commission's recommendations, the Central Government introduced a Bill in the Legislative Assembly on the 12th

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<sup>1</sup> Statement of Objects and Reasons of Land Acquisition (Amendment) Act, 1933— "The Land Acquisition Act, 1894 makes it possible where the previous consent of the Local Government has been obtained, to acquire land compulsorily on behalf of companies, provided that the land is needed for a work 'likely to prove useful to the public.' The Royal Commission on Labour have recommended that the Act be so amended as to enable land to be thus acquired when it is needed for the housing of labour, either by companies or by other employers. They stated that, in a number of instances brought to their notice, land eminently suitable for the development of housing schemes had been held at ransom by the owners, fantastic values being placed upon it as a result of the construction of factories and other industrial concerns in the neighbourhood. The provision of adequate housing for workmen is one of the urgent needs of Indian industry, and the Bill seeks to give effect to the Commission's recommendations." (Gazette of India, 1932, Part V, page 191.)

September, 1932 to amend the Land Acquisition Act of 1894. The Bill after being circulated for public opinion, was referred to the Select Committee and was subsequently passed as Land Acquisition (Amendment) Act, 1933 (XVI of 1933). The Amending Act enables a company to acquire land compulsorily for the purpose of constructing dwelling houses for its workers or for providing amenities directly connected therewith.

Under the Amending Act, an industrial concern, ordinarily employing not less than 100 workmen and owned by an individual or an association of individuals, is deemed to be a company for the purpose of acquisition of land for such purpose. The State Governments are empowered to prescribe the terms on which the land shall be held by the company and the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided.

### **Recommendations of Central and State Labour Enquiry Committees**

Bombay Textile Labour Enquiry Committee, Cawnpore Labour Enquiry Committee, Bihar Labour Enquiry Committee and U. P. Labour Enquiry Committee in their reports pointed out the deplorable housing conditions in most of the industrial centres and made various recommendations for improving the housing conditions of labourers.

The Labour Investigation Committee (Rege Committee) suggested that the States should take the responsibility of providing finance for housing and the recurring expenses should be borne by the different parties concerned. The Committee recommended setting up of statutory Central and Provincial Boards on a tripartite basis to deal with industrial housing policy and all questions concerning finance, ownership, standard of accommodation and actual construction.

The Health Survey and Development Committee (Bhore Committee) in the report published in 1946 commented on the appalling conditions of overcrowding in industrial centres and suggested the essentiality of a long term housing policy for satisfactory solution of housing problems. The Committee expressed the view that the housing of industrial population was primarily the responsibility of the Governments concerned and recommended establishment of statutory bodies to execute house construction programme and enforcement of minimum standards. The Committee suggested that the Government should accept the responsibility for housing of lower income groups and recommended setting up of an All-India Housing Research Institute for co-ordinating building research activities.

### **Industrial Housing Sub-Committee**

The problem of industrial housing was discussed in the seventh meeting of the Standing Labour Committee held in August, 1945 and an Industrial Housing Sub-Committee was appointed with the representatives of Central and State Governments.

The Sub-Committee in its report on the 25th May, 1946, recommended amongst others that (1) There should be a building fund for financing the housing of workers to be raised by the Central and State Governments by making available long-term interest-free loans for housing built according to approved standards. (2) The housing scheme should be subsidised by the Central and State Governments and employers. The building fund and the subsidy should be administered by a National Industrial Housing Board consisting of the representatives of the Central and State Governments, employers, workers and other interested parties. (3) The Central and State Governments should provide for necessary finance by raising long-term interest-free loans. (4) The Central and the State Governments

should co-ordinate their building programmes through the National Industrial Housing Board for ensuring cheap and efficient construction of houses.

The Report of the Industrial Housing Sub-Committee was discussed in the ninth meeting of the Standing Labour Committee held at New Delhi in July, 1946 and the standards of housing were generally approved.

#### **Five Year Labour Programme and Central Government's Housing Scheme**

The Five-Year-Labour Programme of the Central Government provides for adequate housing for the workers. The first Housing Scheme formulated in 1946 by the Central Government allowed a subsidy to the State Government of 12½ per cent. but up to the maximum of Rs. 200/- per house, provided the State Government also contributed a similar amount. The Scheme was not successful.

#### **Industrial Policy Resolution dated 30th April, 1948**

In the Industrial Policy Resolution of April, 1948, the Central Government, with a view to improving the industrial housing, announced their decision to construct one million workers' houses in ten years and constitute a Housing Board for the purpose, the cost being shared in suitable proportions between the Government, employers and the labour. The Central Government proposed to advance loans to serve as capital for the construction of houses and that the recurring charges should be shared by the workers, employers, Central Government and State Governments. The proposal was discussed in the Labour Ministers' Conference held in May, 1948 which recommended that the capital required for industrial housing should be raised by loan and the recurring charges should be met partly by levy of a capitation tax on the employers.

#### **Central Government's New Industrial Housing Scheme, 1949**

A new Scheme of Industrial Housing was formulated by the Ministry of Labour, Government of India in April, 1949, suggesting constitution of Central and Regional Housing Boards for the execution of the Scheme. Under the Scheme, the capital required for industrial housing will be provided to the extent of two-thirds by the Central Government and one-third by the State Government or the employer sponsored by the State Government. The Central Government will not grant any subvention to the State Governments for this purpose.

The conditions were that the Central Government should approve the standard of housing to be maintained and the area chosen for construction and that the rent to be charged from the employee should not exceed 2½% of the capital cost. The Scheme was also not successful as the response from the State Governments was not satisfactory.

#### **Subsidised Industrial Housing Scheme of the Central Government, 1952-56**

Early in 1952, a Subsidised Industrial Housing Scheme was formulated by the Ministry of Labour, Government of India, under which the Central Government would pay a subsidy of 20% of the cost of building including the cost of land, provided the balance was paid by the employers who would let out the houses to their workers.

As the response from the employers to this Scheme was not encouraging, the Ministry of Works, Housing and Supply, Government of India, prepared a new Subsidised Industrial Housing Scheme for providing houses to the industrial workers through the agency of State Governments, Housing Boards and Co-operative Societies by means of subsidies and loans on easy terms. The Central Government convened an All-India Tripartite Conference on Housing in August, 1952 which approved this Scheme.



Under this Scheme, financial assistance would be given in the form of subsidies and loans by the Central Government to the State Governments, statutory Housing Boards, employers and registered co-operative house-building societies of industrial workers.

The Scheme provides for Central subsidies up to 50% of the total cost of construction including cost of land and loans for the balance when housing schemes have been undertaken by the State Governments, the loans being repayable in 25 years with interest @  $4\frac{1}{2}\%$  per annum, 50% subsidy would be given to the Housing Boards. In the case of houses built for industrial workers by employers or co-operative societies, the subsidy will be 25% of the cost and a loan of  $37\frac{1}{2}\%$  of the total cost repayable in 15 years with interest @  $4\frac{1}{2}$  or  $4\frac{3}{4}\%$ . Loans and subsidies to the employers will be given directly by the Central Government but the loans to Housing Board, Co-operative Societies and local bodies will be made through the State Governments which will guarantee them. This Scheme was approved by the Planning Commission and was incorporated in the First Five Year Plan.

The Scheme provides that only the industrial workers will be entitled to assistance and further provides payment of sanctioned financial assistance in instalments related roughly to the progress of construction. The specifications, lay-outs, standards of accommodation and densities in the nature of minima have been provided in the scheme.

Application for financial assistance under the Scheme has to be made to the Ministry of Works, Housing and Supply and an agreement has to be entered into with the Central Government. The ownership of the tenements constructed by the employers or workers' co-operative societies will vest in them subject to the terms and conditions of the agreement.

The Scheme will remain in force till the year 1955-56. Under the Scheme, the Central Government will bear the major share of the financial burden of the housing programme.

### **Planning Commission on Industrial Housing**

The Planning Commission in the First Five Year Plan made an attempt to assess the housing shortage in the chief industrial towns.

The Commission suggested that in view of the gravity and vastness of the problem, the Central Government should accept large measure of responsibility for financing housing programmes in industrial centres. The Commission recommended that a subsidy up to 50% of the total cost of construction, including cost of land, should be paid to the State Government and statutory Housing Boards, 25% to private employers and co-operative housing societies of industrial workers. Loans for the balance, repayable in 25 years, should be made available to the State Government. Private employers and co-operative housing societies of industrial workers might obtain loan up to  $37\frac{1}{2}\%$  of the total cost, repayable in 15 years, from the Central Government directly.

The Commission emphasised on the need of research in building techniques and materials and also suggested the setting up of a National Building Organisation for properly co-ordinating and publishing the research works for cheapening cost and improving building techniques.

The Commission further recommended the establishment of statutory autonomous Central and Regional Housing Boards to implement the housing programme.

The Commission recommended enactment of a Housing Act and a Town and Country Planning Act and amendment of the Land Acquisition Act of 1894

regarding payment of compensation for lands required to implement housing schemes for industrial workers and for providing for a speedier method of taking possession of the acquired lands.

The Second five Year Plan did not suggest any alteration in the Subsidised Industrial Scheme approved in the First Five Year Plan. The Scheme now applies also to mine workers other than those engaged in coal and mica industries for whom there are separate schemes.

### **State Legislations on Industrial Housing**

#### **Bombay Housing Board Act, 1948**

Among the States, the Government of Bombay took the lead in enacting housing legislation and the Bombay Housing Board Act was passed on the 22nd December, 1948. The Act was amended in 1949 and 1951.

The Act provides for constituting a Housing Board consisting of a Chairman and four members nominated by the State Government. Subject to the control of the State Government, the Board is authorised to incur expenditure and undertake works for framing housing scheme and executing the same. The Board is authorised to acquire land in connection with its programme of housing schemes as a local authority for the purpose of the Land Acquisition Act. The Board is empowered to promote land and building development and to levy betterment charges.

#### **Mysore Labour Housing Act, 1949**

The Government of Mysore enacted the Mysore Labour Housing Act in February 1949 in order to make provision for providing proper housing accommodation for the workers. The Act provides for the constitution of a Labour Housing Fund for meeting the expenses of housing schemes and further provides that the Fund is to be raised from levy of a capitation tax on employers, rents from employee-tenants and donations, grants or gifts from the State Government, local authorities or individuals. The Act also provides for collection of contributions from certain categories of employers.

The Act provides for the constitution of a Housing Corporation consisting of the representatives of the State Government, employers and employees for the purpose of administration of the Fund. The Housing Corporation is authorised to carry out housing schemes for providing suitable accommodation for the employees and to acquire land for this purpose.

#### **Madhya Pradesh Housing Board Act, 1950**

The Government of Madhya Pradesh enacted the Madhya Pradesh Housing Board Act on the 10th November, 1950. The Act provides for constitution of a Housing Board consisting of the Chairman and nine members. The Board is empowered to frame and carry out housing schemes and to do such other things which may expedite and cheapen building constructions. The Board is also authorised to acquire land as a local authority for the purposes of Land Acquisition Act. The Fund of the Board will be raised from grants, donations, gifts or loan.

The State Government framed the Madhya Pradesh Housing Board Rules in May, 1952, prescribing the duties and functions of the Chairman and officers of the Board, conditions under which the Board can borrow money and forms in which the annual housing programme, budget, etc. have to be submitted.

#### **Hyderabad Labour Housing Act, 1952**

The Hyderabad Labour Housing Act which came into force on the 15th November, 1952 provides for setting up of a Housing Corporation with the

Labour Minister as Chairman and three representatives each of the employers and employees and six nominees of the State Government including one woman. The Corporation is required to provide houses of approved types and designs for the workers as near as possible to their places of work.

The Act provides for constitution of a Labour Housing Fund with grants, donations, loans from the Central or State Government, local authority and private bodies. The Act specifies the purposes for which the Fund may be utilised and authorises the Corporation to sanction grant-in-aid to the employer or local authority for the purpose of any approved scheme.

## LAND ACQUISITION ACT, 1894 (I OF 1894) (EXTRACTS)

### Arrangement of Sections

#### PART I.—PRELIMINARY

1. Short title, extent and commencement.
3. Definitions.

#### PART VII.—ACQUISITION OF LAND FOR COMPANIES

38. Company may be authorized to enter and survey.
- 38A. Industrial concern to be deemed company for certain purposes.
39. Previous consent of appropriate Government and execution of agreement necessary.
40. Previous enquiry.
41. Agreement with appropriate Government.
42. Publication of agreement.
43. Sections 39 to 42 not to apply where Government bound by agreement to provide land for companies.

#### PART VIII.—MISCELLANEOUS

50. Acquisition of land at a cost of a local authority or company.
51. Exemption from stamp-duty and fees.

## LAND ACQUISITION ACT, 1894 (I OF 1894) (EXTRACTS)<sup>1</sup>

*An Act to amend the law for the acquisition of land for public purposes and for Companies.*

[2nd February, 1894.]

Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for companies and for determining the amount of compensation to be made on account of such acquisition; it is hereby enacted as follows:—

#### PART I.—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Land Acquisition Act, 1894;
- (2) It extends to <sup>2</sup>[the whole of India except Part B States]; and
- (3) It shall come into force on the first day of March, 1894.
3. **Definitions.**—In this Act, unless there is something repugnant in the subject or context,—

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 32.

<sup>2</sup> Subs. by the A. O. 1950 for "all the Provinces of India".

(e) the expression "Company" means a Company registered under the "Indian Companies Act, 1882 (VI of 1882) or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament "[of the United Kingdom] or "[by an Indian law], or by Royal Charter or Letters Patent "[and includes a society registered under the Societies Registration Act, 1860 (XXI of 1860), and a registered society within the meaning of the Co-operative Societies Act, 1912 (II of 1912)];

"[(ee) the expression "appropriate Government" means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government].

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#### PART VII.—ACQUISITION OF LAND FOR COMPANIES

**38. Company may be authorised to enter and survey.**—(1) \* \* \* The "[appropriate Government] may authorise any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.<sup>9</sup>

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and section 5<sup>10</sup> shall be construed as if after the words "the officer" the words "of the Company" were inserted.

<sup>11</sup>[**38A. Industrial concern to be deemed Company for certain purposes.**—An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 5A,<sup>12</sup> 6,<sup>13</sup> 7,<sup>13</sup> 17<sup>14</sup> and 50 shall be interpreted as references also to such concern.]

**39. Previous consent of appropriate Government and execution of agreement necessary.**—The provisions of sections 6 to 37<sup>15</sup> (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the "[appropriate Government], nor unless the Company shall have executed the agreement hereinafter mentioned.

**40. Previous enquiry.**—(1) Such consent shall not be given unless the "[appropriate Government] be satisfied, <sup>16</sup>[either on the report of the Collector

<sup>9</sup> See now the Companies Act, 1956 (I of 1956).

<sup>4</sup> Ins. by the A.O. 1950.

<sup>5</sup> Subs. by the A. O. 1937 for "of the Governor-General in Council".

<sup>6</sup> Added by Act 17 of 1919, s. 2.

<sup>7</sup> The words "Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf" were rep. by Act 38 of 1920, s. 2 and Sch. I.

<sup>8</sup> Subs. by the A. O. 1950 for "Provincial Government".

<sup>9</sup> Section 4 deals with publication of preliminary notification and powers of officers thereupon.

<sup>10</sup> Section 5 refers to payment for damages.

<sup>11</sup> Ins. by s. 2 of the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

<sup>12</sup> Section 5A deals with hearing of objections.

<sup>13</sup> Sections 6 and 7 refer to declaration of intended acquisition.

<sup>14</sup> Section 17 deals with special powers in case of emergency.

<sup>15</sup> These sections deal with investigation, procedure, payment of compensation, etc. in connection with acquisition of land.

<sup>16</sup> Ins. by Act XXXVIII of 1923, s. 9.

under section 5A,<sup>12</sup> sub-section (2), or] by an enquiry held as hereinafter provided:—

<sup>16a</sup>[(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.]

(2) Such enquiry shall be held by such officer and at such time and place as the \*[appropriate Government] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the <sup>17</sup>Code of Civil Procedure (XIV of 1882) in the case of a Civil Court.

**41. Agreement with appropriate Government.**—<sup>18</sup> \* \* \* If the \*[appropriate Government] is satisfied <sup>19</sup>[after consideration of the report, if any, of the Controller under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40] that <sup>20</sup>[the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or that] the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall <sup>21</sup>\* \* \* require the Company to enter into an agreement <sup>22</sup>[with the \*[appropriate Government] providing to the satisfaction of the \*[appropriate Government] for the following matters namely:—

(1) the <sup>23</sup>[payment to the \*[appropriate Government] of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company;

(3) the terms on which the land shall be held by the Company;

<sup>24</sup>[(4) where the acquisition is for the purpose of erecting, dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and

(5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.]

**42. Publication of agreement.**—Every such agreement shall, as soon as may be after its execution, be published <sup>25</sup> \* \* \* in the <sup>26</sup>[Official Gazette] and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

**43. Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.**—The provisions of section 39 to 42, both inclu-

<sup>16a</sup> Subs. by Act XVI of 1933, s. 3 for the original clauses.

<sup>17</sup> See now Act of V of 1908.

<sup>18</sup> Certain words were omitted by Act XXXVIII of 1923, s. 10.

<sup>19</sup> Ins. by *ibid.* s. 10.

<sup>20</sup> Ins. by Act XVI of 1933, s. 4.

<sup>21</sup> Certain words were rep. by Act XXXVIII of 1920, s. 2 and Sch. I.

<sup>22</sup> Subs. by the A. O. 1937 for "with the Secretary of State for India in Council".

<sup>23</sup> Subs., *ibid.*, for "payment to Government".

<sup>24</sup> Subs. by Act VI of 1933, s. 4 for the original clauses.

<sup>25</sup> The words "in the Gazette of India and also" were rep. by the A.O. 1937.

<sup>26</sup> Subs., *ibid.*, for "local official Gazette."

sive; shall not apply and the corresponding sections of the <sup>27</sup>Land Acquisition Act, 1870 (X of 1870) shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, <sup>28</sup>[under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, <sup>29</sup>[the Central Government or and <sup>30</sup>[State] Government is or was bound to provide land].

#### PART VIII—MISCELLANEOUS

**50. Acquisition of land at cost of a local authority or Company.**—(1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.<sup>31</sup>

**51. Exemption from stamp duty and fees.**—No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

### SUBSIDISED INDUSTRIAL HOUSING SCHEME FOR WORKERS

#### Arrangement of Paragraphs

1. Subsidised Industrial Housing Scheme.
2. Minimum Standards of Accommodation.
3. Standard costs.
4. Financial assistance.
5. Assistance to Co-operative Societies of Industrial Workers.
6. Limits of assistance
7. Standard Rents.
8. Payment of Loan and Subsidy.
9. Management of tenements.
10. Mode of application.
11. Ownership, etc.
12. Allotment of tenements.
13. General.

#### APPENDICES.

### SUBSIDISED INDUSTRIAL HOUSING SCHEME FOR WORKERS<sup>1</sup>

**Subsidised Industrial Housing Scheme.**—Subject to paragraph 6 below, the Scheme contemplates assistance for the construction of tenements for the following categories of workers:

- (i) Those who are "workers" within the meaning of section 2(1) of the Factories Act, 1948 (Act LXIII of 1948), as amended from time to time; and
- (ii) Those "employed" in mines other than coal and mica mines, within the meaning of section 2(h) of the Mines Act, 1952 (Act XXXV of 1952), as amended from time to time

<sup>27</sup> Repealed by this Act.

<sup>28</sup> Subs. by the A.O. 1937 for "under any agreement between such company and the Secretary of State for India in Council, the Government is, or was, bound to provide land."

<sup>29</sup> Subs. by the A.O. 1948 for "or any Government in British India."

<sup>30</sup> Subs. by the A.O. 1950 for "Provincial."

<sup>31</sup> Section 18 deals with reference to Court.

<sup>1</sup> The Scheme was formulated by the Ministry of Works, Housing and Supply for grant of loans and subsidies towards Housing Schemes for the years 1952-56.

The construction will be through the agency of: (i) State Governments or Statutory Housing Boards; (ii) Employers; and (iii) Registered Co-operative Societies of Industrial Workers.

2. **Minimum Standards of Accommodation.**—(i) The minimum accommodation that has to be provided in a tenement under the Scheme must consist of:

**A: One-roomed tenement**

1. Room	...	...	...	120 square feet
2. Verandah and kitchen	...	...	...	72 " "
3. A bath-room	...	...	...	16 " "
4. A lavatory	...	...	...	12 " "

**B: Two-roomed tenement**

	Single-storeyed	Multi-storeyed
1. Room No. 1	120 square feet	100 square feet
2. Room No. 2	96 " "	99 " "
3. Kitchen and verandah	100.5 " "	98 " "
4. Bath-Room	16 " "	16 " "
5. Lavatory [see note (b) below]	12 " "	6 (half) "
6. Cup-board	11 " "	12 sq. " "

Note: (a) *For one-roomed tenements:* A water-fluid lavatory may be shared between two tenements. If, however, a service privy is provided, each tenement should have one separately. Where multi-storeyed construction is undertaken, provision of common sanitary facilities at a scale of 3 lavatories, 2 bath-rooms, 2 washing places and 1 stair-case for each set of eight tenements will be considered satisfactory, though attempts should be made to provide independent lavatories and bath-rooms.

(b) *For two-roomed tenements:* Individual lavatories and bath-rooms should be provided in each two-roomed tenement. In the case of multi-storeyed construction, however, there will be no objection to a lavatory being shared between two tenements.

(c) It will be desirable to keep the width of the verandah at least 8'.

3. **Standard costs.**—For the purpose of the Scheme the standard costs of different types of tenements will be as follows:

Type of tenement	Cost of building	Cost of land	Standard cost
1	2	3	4

**A. Single-storeyed and double-storeyed tenements in or outside Bombay and Calcutta.**

1. Single-storeyed one-roomed	2,260	440	2,700
2. Single-storeyed two-roomed	2,900	440	3,340
3. Double-storeyed one-roomed	2,260	440	2,700
4. Double-storeyed two-roomed	3,050	440	3,490

**B. Multi-storeyed tenement in Bombay and Calcutta.**

1. Multi-storeyed one-roomed	3,200	800	4,000
2. Multi-storeyed two-roomed	4,630	800	5,430

Note: (1) Financial assistance will be based on either the standard cost given above or the actual cost, whichever is lower.

(2) Where multi-storeyed tenements are proposed to be constructed at places other than Bombay and Calcutta, assistance will be restricted to that admissible on the basis of standard costs for double-storeyed tenements given above.

(3) For single-storeyed and double-storeyed tenements proposed to be constructed in Bombay and Calcutta, assistance will be restricted to that admissible for similar tenements elsewhere.

(4) The cost of land and/or its development will be taken into consideration for purposes of financial assistance unless the land required has already been acquired and/or developed.

(5) The standard costs of Rs. 4,000 and 5,430 for multi-storeyed one-roomed and two-roomed tenements in Bombay and Calcutta may be raised to Rs. 4,500 or Rs. 5,930 respectively, in special cases.

4. **Financial assistance.**—The financial assistance provided by the Government of India will consist of subsidies and loans on comparatively easy terms. The maximum permissible subsidies and loans in the case of each agency are given in Tables I and II.

TABLE—1  
SINGLE-STOREYED & DOUBLE-STOREYED TENEMENTS  
In or outside Bombay and Calcutta

	Single-storeyed						Double-storeyed					
	One-roomed			Two-roomed			One-roomed			Two-roomed		
	Bldg. 2260		Land 440	Bldg. 2900		Land 440	Bldg. 2260		Land 440	Bldg. 3050		Land 440
	L.	S.	L.	L.	S.	L.	L.	S.	L.	L.	S.	L.
1. State Govts. and Statutory Housing Boards	1130	1130	220	1450	1450	220	1130	1130	220	1525	1525	220
2. Co-operative Societies of Industrial Workers	1130	565	220	1450	725	110	1130	565	220	1525	762	110
3. Employers	848	565	165	1087	725	110	848	565	165	1143	762	110

L.—Loan.

S.—Subsidy.

NOTE.—1. The figure for land includes the cost of development.

2.—Each loan figure and each subsidy figure represent the maximum; the loan sanctioned in each case will be either this figure or 50 per cent. of the admitted cost in the case of State Governments, Statutory Housing Boards and Co-operative Societies of Industrial Workers and 37½ per cent. of the admitted cost in the case of employers, whichever is less.

The subsidy will be either the figures indicated or 50 per cent. of the admitted cost in the case of State Government and Statutory Housing Boards and 25 per cent. in the case of Co-operative Societies of Industrial Workers and employers, whichever is less. If the actual cost proves to be lower than the admitted cost, the subsidy will be disbursed at the appropriate percentage of actual cost.



**TABLE—II**  
**MULTI-STORYED TENEMENTS**  
(In Bombay and Calcutta)

	ONE-ROOMED				TWO-ROOMED			
	Bldg. 3200		Land 800		Bldg. 4630		Land 800	
	L.	S.	L.	S.	L.	S.	L.	S.
1. State Govts. and Statutory Housing Boards.	1600	1600	400	400	2315	2315	400	400
2. Co-operative Societies of Industrial Workers.	1600	800	400	200	2315	1157	400	200
3. Employers . .	1200	800	300	200	1736	1157	300	200

L.—Loan.

S.—Subsidy.

NOTE.—1. The figures for land includes the cost of development.

2. Where multi-storeyed tenements are proposed to be constructed at places other than Bombay and Calcutta, assistance will be restricted to that admissible for double-storeyed tenements as indicated in Table 1.

3. Each loan figure and each subsidy figure represent the maximum; the loan sanctioned in each case will be either this figure or 50 per cent. of the admitted cost in the case of State Govts., Statutory Housing Boards and Co-operative Societies of Industrial Workers and 37½ per cent. of the admitted cost in the case of employers, whichever is less.

The subsidy will be either the figure indicated or 50 per cent. of the admitted cost in the case of State Govts. and Statutory Housing Board and 25 per cent. in the case of Co-operative Societies of Industrial Workers and employers, whichever is less. If the actual cost proves to be lower than the admitted cost, the subsidy will be disbursed at the appropriate percentage of actual cost.

For the year 1955-56, the rate of interest will be 4½ per cent. for State Governments and Statutory Housing Boards; for employers it will be 4¼ per cent.; the loans advanced to State Governments for Workers' Co-operatives, will, so far as the Central Government is concerned, be at 4½ per cent. Loans will be recoverable in 25 annual equated instalments from State Governments and Co-operative Societies of Industrial Workers and in 15 such instalments from industrialists. The detailed provisions in this respect will be found in Clause 9 of the Agreements at Appendices B and D.

**5. Assistance to Co-operative Societies of Industrial Workers.**—(i) Assistance for Co-operative Societies of Industrial Workers will be provided through the State Governments.

(ii) To be eligible for assistance a Co-operative Society of Industrial Workers must provide in its bye-laws that it is permitted "to accept from the Government moneys by way of loan and subsidy, under the Subsidised Industrial Housing Scheme of the Government of India, subject to such terms and conditions (notwithstanding anything to the contrary in the bye-laws) as they may impose in this regard and to utilise such moneys for the construction of tenements for such of its worker-members as are *bona fide* employees of.....and governed by the Factories Act, 1948, or Mines Act, 1952 and to enter into such agreements with the said worker-members as may be necessary to implement the said terms and conditions agreed to with the Government as a condition precedent to the grant of the said loan and subsidy".

The State Government concerned will have to enter into suitable agreements with each Co-operative Society of Industrial Workers, for whom assistance under the Scheme is approved. In addition, each agreement with a Co-operative Society of Industrial Workers must provide that, for 25 years (the period of the agreement) from the date of completion of each tenement, the ownership of the tenement will not pass to any person who is not an industrial worker.

Whenever possible, the subsidy to a Co-operative Society of Industrial Workers should take the form of the grant of developed building sites: the cost should not, however, exceed the maximum already indicated.

**6. Limits of assistance.**—(i) No financial assistance under the Scheme will be granted for the housing of employees of the Central or the State Governments, of local authorities, or of any statutory bodies (other than those paying income-tax in respect of their earnings or a part thereof) even if the workers are governed by the Factories Act, 1948, or by the Mines Act, 1952. Workers in corporations or companies owned in part or in full by Central or State Governments will, however, be entitled to assistance under the Scheme.

(ii) While sanctioning assistance under the Scheme, the Government of India will take into consideration such facts as the industrial population of the State, housing conditions in the area concerned, etc., which generally determine the urgency of the provision of housing in each State.

**7. Standard Rents.**—The standard rents for the types of tenements indicated in paragraph 3 are as follows:—

Type of tenement	Standard rent per month
<i>A. In Bombay and Calcutta.</i>	<i>Rs.</i>
1. Single-storeyed one-roomed . . . . .	10 0 0
2. Single-storeyed two-roomed . . . . .	13 0 0
3. Double-storeyed one-roomed . . . . .	10 0 0
4. Double-storeyed two-roomed . . . . .	14 0 0
5. Multi-storeyed one-roomed . . . . .	17 8 0
6. Multi-storeyed two-roomed . . . . .	23 8 0
<i>B. Outside Bombay and Calcutta.</i>	
7. Single-storeyed one-roomed . . . . .	10 0 0
8. Single-storeyed two-roomed . . . . .	13 0 0
9. Double-storeyed one-roomed . . . . .	10 0 0
10. Double-storeyed two-roomed . . . . .	14 0 0
11. Multi-storeyed one-roomed . . . . .	10 0 0
12. Multi-storeyed two-roomed . . . . .	14 0 0

Note: (1) There is no objection to the charging of lower rents

(2) These rents are inclusive of municipal rates and taxes. In case the State Governments succeed in lowering these rates and taxes, the benefit of any such reduction should be passed on to the tenant in the form of lower rents.

**8. Payment of Loan and Subsidy.**—The payment of sanctioned financial assistance will be made in instalments related roughly to the progress of construction.

(a) *For State Governments or Statutory Housing Boards:—*

#### Loan

(i) 33½ per cent. on acceptance of the terms and conditions indicated in the sanction letter;

(ii) 33½ per cent. when construction reaches plinth level;

(iii) 33½ per cent. when construction reaches roof level.

#### Subsidy

(i) 80 per cent. on completion of the project;

(ii) 20 per cent. when audited figures of the cost of complete construction are received and admitted.

(b) *For Employers.*

#### Loan

(i) 25 per cent. when construction reaches plinth level;

(ii) 50 per cent. when construction reaches roof level;

(iii) 25 per cent. on completion of the project.

**Subsidy**

- (i) 20 per cent. on completion of the project; and
- (ii) 80 per cent. on receipt and acceptance of audited accounts.

(c) *For Co-operative Societies of Industrial Workers:—*

**Loan**

- (i) 33½ per cent. when construction reaches plinth level;
- (ii) 66½ per cent. when construction reaches roof level.

**Subsidy**

- (i) 66½ per cent. on completion of the project;
- (ii) 33½ per cent. on receipt and acceptance of audited accounts.

Note 1.—The method of payment indicated herein relates to single-storeyed construction; where construction is double or multi-storeyed, the method of payment will be suitably altered.

Note 2.—On a suggestion received from the Bombay Government in respect of payment of loan assistance to the Co-operative Societies, it has been agreed that the Co-operative Societies in that State will be paid one-third of the loan assistance on acceptance of terms and conditions of the sanction letter, another one-third on construction reaching plinth-level and the remaining one-third on completion of roof level.

9. **Specifications, etc.**—(i) Specifications chosen should be such that the estimated life of the tenements will be about 40 years. As specifications will have to depend on climatic conditions, and building materials locally available, no standard specifications are being laid down. Alternative specifications for each structural component are given in Appendix A.

(ii) The choice of building designs is primarily a matter for the agency concerned to decide, subject to the proviso that the minimum standards of accommodation are assured.

(iii) The lay-outs of industrial housing projects should be very carefully prepared and reasonable provision for open spaces should be made. It is desirable that each tenement should ordinarily have a courtyard of between 300 and 400 sq. ft. with either a compound wall or a fence so that hedges can be grown. In double-storeyed tenements with flat terraces on top, a staircase to reach the terrace should be provided so that it may be used in the hot weather. In the dry hot regions, tenements should normally be not more than double-storeyed. In the humid hot regions, multi-storeyed construction may be undertaken with adequate cross-ventilation.

Each lay-out should also indicate the sites where trees, providing plenty of shade, are proposed to be planted. These should be at the rate of about one per tenement except in the case of multi-storeyed tenements.

(iv) Industrial housing projects under the Scheme should not have densities higher than those indicated below:—

- (a) Single-storeyed development—20-25 tenements per gross acre.
- (b) Double-storeyed development—30-35 tenements per gross acre.
- (c) Three-storeyed development—40-45 tenements per gross acre.
- (d) Four-storeyed development—50-60 tenement per gross acre.

Even if construction is higher than four-storeyed, the density should not exceed 60 tenements per gross acre.

The lower figures in each case should be aimed at for bigger neighbourhoods where community facilities like roads, parks, etc., have to be provided within the colony; the higher figures may be adopted for smaller colonies where perimeter roads and some community facilities exist outside the proposed colonies. In the bigger cities, if a colony of less than 100 tenements is proposed to be constructed, a higher density may be permitted if it appears that the residents of the colony have access to community facilities provided by local bodies. It will be appreciated, therefore, that a good site-plan showing the proposed colony and its surrounding as clearly as possible is very essential for the expeditious consideration by Government of any proposed project.

(v) The specifications, lay-outs, standards of accommodation and densities indicated herein are in the nature of minima and there is no objection to the adoption of better standards. The financial assistance that may be sanctioned in each case will not, however, exceed that based on the maximum standard costs indicated in paragraph 3, in any circumstances.

(vi) It has been found that the choice of the specifications and the preparation of lay-outs take a long time to settle by correspondence. It will be better, therefore, if intending applicants under the scheme discuss these problems with the Housing Adviser to this Ministry (Shri C. B. Patel, Office Telephone No. 43006), before specifications are finally chosen and lay-outs are finally settled. Where it is not possible, it is desirable that details relating to specifications, lay-outs, estimates of costs, etc., are prepared by qualified architects, engineers or town planners.

**10. Management of tenements.**—The management of each housing project under the Scheme undertaken by the industrialists must be entrusted to a committee consisting of the representatives of the employer on the one hand and of workers on the other, with a Chairman nominated by the State Government concerned. The allotment of tenements in each such project will be governed by the rules of allotment (Appendix F) which will be found as an enclosure to Appendix B.

**11. Mode of Application.**—(a) Applications for financial assistance under the Scheme should be accompanied by:—(i) The attached questionnaire (Appendix G) duly filled in; (ii) Site plan; (iii) Lay-out plan; (iv) Building plan; (v) Detailed specifications; (vi) Detailed estimates of the cost of building, (vii) Detailed estimates of the cost of development (if the land is not already developed); and (viii) Memorandum and Articles of Association in the case of employers; or Bye-laws in the case of Co-operative Societies. They should be addressed to the Secretary to the Government of India, Ministry of Works, Housing and Supply, New Delhi.

(b) Where an applicant is not a State Government, copies of all the documents indicated in paragraph (a) should also be endorsed to the State Government concerned so that they may send their comments on the proposal to the Government of India as soon as possible.

**12. Ownership, etc.**—(a) Every employer, for whom financial assistance is sanctioned under the Scheme, will have to enter into an agreement with the Government of India. The forms of agreement to be executed in cases where both loan and subsidy are sanctioned and where only subsidy is sanctioned are attached as Appendix B and Appendix C\* respectively to this Scheme. The form of agreement to be executed by the Co-operatives with State Governments concerned will be somewhat on the lines of the model agreement given as Appendix D\* to this Scheme. Every employer, who is sanctioned loan and subsidy under the Scheme will also have to execute a mortgage deed with the Government of India; the form of this deed will be found at Appendix E\* to this Scheme.

(b) The ownership of the tenements constructed by the employers or workers' Co-operative Societies will vest in the employers or workers' Co-operative Societies concerned, subject to the terms and conditions of the agreement entered into in each case.

**13. Allotment of tenements.**—Two-roomed tenements are intended for allotment to workers whose income does not exceed Rs. 350 per mensem; one-roomed tenements may be allotted to workers with an income not exceeding Rs. 250 per mensem. There is no lower-income limit in either case.

The allotment of the tenements will be governed by the Allotment Rules given in Appendix F to this Scheme.

**14. General.**—(a) In this Scheme, the Central Government bears the major share of the financial burden of the housing programme. It is expected that the State Governments will meet any short-fall in the maintenance charges of the housing estates to be constructed by them or by the Housing Boards. The establishment charges on the schemes taken up by the State Governments and Housing Boards or any agency other than private employers, will also have to be borne by the State Governments. It is understood that the provision of schools, dispensaries and other amenities for these housing estates will be made by local authorities concerned in the normal course. In regard to municipal rates and taxes, it is suggested that the State Governments should persuade local authorities to allow a rebate of at least 50 per cent. on the general rate or house tax, at least for an initial period of, say, 10 years. This will help in reducing the rents. The Central Government will do their best to secure the supply of building materials and transport.

(b) This Scheme is expected to be in force till the year 1955-56, though such changes as may be found desirable and necessary by Government will be made therein from time to time. The operation of the Scheme may be extended beyond the year 1955-56 for such period<sup>2</sup> as might be considered necessary.

#### APPENDIX A.—GENERAL SPECIFICATIONS FOR SINGLE-STOREYED STRUCTURES

**1. Foundations.**—2' deep, 1'-6" wide, concrete 6" thick; may be cement concrete with stone ballast 1:5:10 or lime concrete with brick ballast whichever is available in the

<sup>2</sup> This Scheme has been extended till the end of the Second Five Year Plan period.

\* Not reproduced as Appendix to this Scheme.

locality. Deeper and wider foundations will have to be provided for double and multi-storied buildings or where soil is poor.

2. **Masonry in foundation and plinth.**—(a) Mixed class brickwork in cement mortar 1:8 or lime mortar 1:3 plinth 9" to 12" above the ground level, thickness 1'-1½" and 9"; (b) Random rubble masonry in cement mortar 1:8 or lime mortar 1:3, 12" to 15" thick; (c) Precast cement concrete blocks.

3. **Dampproof course.**—Cement concrete 1:2:4, 1" thick or rich cement plaster ½" thick or bitumastic compound.

4. **Superstructure.**—(a) Mixed class brick-work in mud mortar 9" thick with top and bottom 2 courses and jambs in cement or lime mortar; (b) Random rubble masonry mud mortar 12" to 15" thick with top and bottom 9" depth and jambs in cement or lime mortar; (c) Cement sand or cement concrete hollow block masonry 8" thick; (d) Precast cement concrete walling in pillar and panel construction with 1½" thick double walls with at least 2" hollow between the 2 leaves; (e) Stabilised soil-cement blocks or *in situ* walls with stabilised earth.

5. **Roofing.**—(a) R. C. C. slabs 3" to 4" thick according to the span with a suitable waterproofing course; (b) Reinforced brick-work roof with a suitable waterproofing course; (c) Semi-precast roof with precast beams and hollow blocks or bricks between the beams topped with 1½" thick *in situ* compression concrete with proper waterproofing course; (d) Reinforced concrete precast roof in tees, channels or I sections with proper waterproofing course; (e) Sloped roof with Mangalore tiles or asbestos sheets on sawn scantlings; ceiling is desirable for asbestos roof to keep the room cool.

6. **Woodwork.**—(a) Battered and braced doors and windows with local timber painted 2 coats with durable paint; (b) 1½" thick panelled doors with local timber and 1" thick panelled windows with local timber. Minimum size of frame to be 3" x 3" for doors and 3" x 2½" for windows. G. I. sheet and asbestos sheet panels should be avoided. Hard white-ant resisting wood like Sal may be used for frames, while soft woods like Devdar or Kail may be used for shutters.

7. **Flooring.**—(a) 1" thick c.c. 1:2:4 over 3" lime concrete with brick ballast or 1:5:10 c.c. with stone ballast; (b) Stone slab floor with Shahabad, Kotah, Cuddapah or any other durable stone slabs laid in lime mortar and pointed with cement mortar over 3" thick stable base; (c) ½" thick cement plaster 1:3 mortar finished smooth with neat cement over a bed of 4" thick cement concrete 1:5:10 in stone ballast or lime concrete in brick bats.

8. **Finish.**—½" thick 1:6 cement plaster both sides or 1:2 lime plaster inside and cement plaster outside or cement pointing to brick stone or hollow block masonry outside and plaster inside. White-washing inside and colour washing on the outside.

9. **Partition walls.**—(a) Non-load-bearing partition walls may have no foundation and may be 3" thick with brick on edge where good bricks are available or 4½" thick where bricks are not so good in cement mortar 1:4; (b) Clinker blocks made with burnt coal clinker in the proportion of 1:10, 3" to 4" thick; (c) 3" to 4" thick blocks made with brick bats or any other light weight aggregate; (d) Hollow cement sand blocks.

10. **Sanitary installations.**—Indian type white glazed water closet with 3 gallons C.I. flushing tanks.

11. **Water Supply.**—One water tap in the bathing place with a 4" diameter open drain and gully trap.

12. **Electric connection.**—Two electric points, one in the room and the other in the kitchen.

#### APPENDIX B.—AGREEMENT FOR LOAN AND SUBSIDY

##### AGREEMENT BETWEEN... AND THE PRESIDENT OF INDIA

THIS AGREEMENT made this ..... day of ..... one thousand nine hundred and fifty ..... BETWEEN ..... a Company incorporated under the Indian Companies Act, 1913, (1) ..... (2) ..... and (3) .....

and having its registered office at ..... all carrying on business under the firm name and style of ..... in the town of ..... and having its/their main factory at ..... in the District ..... of the State of ..... (hereinafter referred to as "the Loanee"/ "the Loanees" which term shall unless excluded by or repugnant to the subject or context include its successors and permitted assigns/partners or partner for the time being constituting the said firm survivors or survivor of them and the heirs, executors and administrators of the last surviving partner and their, his or her permitted assigns) of the ONE PART and the President of India (hereinafter called "the Government" which term shall unless excluded by or repugnant to the subject or context include his successors and assigns) of the OTHER PART, WHEREAS:

(i) For the purpose of constructing tenements for housing the workers (for the purposes of this Agreement, the expression "worker" has the same meaning as that contained in Section 2(1) of the Factories Act, 1948 (Act LXIII of 1948) as amended from time to time) employed/or to be hereafter employed by him/them the Loanee(s) has/have approached the Government for a subsidy and/or a loan not exceeding Rs.....and Rs..... which respectively, represent 25% and/or 37½% of the estimated cost of the construction of tenements including/excluding cost of land to build.....one-roomed tenements in single/double/multi-storeyed buildings and.....two-roomed tenements in single/double/multi-storeyed buildings.

(ii) The plans and specifications submitted by the Loanee(s) in respect of the proposed construction have been approved by the Government without any modifications/with some modifications suggested by the Government and agreed to by the Loanee(s) as stated in the Annexure A hereto.

(iii) The Loanee(s) has/have agreed to construct the said tenements strictly in accordance with the said plans and specifications with or without agreed modifications, as the case may be.

(iv) The Government being satisfied that the proposed construction will be helpful in implementing the Government's scheme for giving an impetus to industrial housing with a view to relieving the acute shortage of houses intended for industrial workers has agreed to grant for the purposes aforesaid a subsidy not exceeding a sum of Rs.... ( ) or a sum equal to 25% of the actual cost of construction as certified in the manner provided in clause 2 hereof, whichever is less, and/or a loan not exceeding a sum of Rs..... ( ) upon the terms and conditions hereinafter appearing and contained. NOW THIS AGREEMENT WITNESSETH and it is hereby agreed and declared by and between the parties hereto as follows:—

1. This Agreement shall as from the date hereof remain in force for a period of 25 years calculated from the date on which construction of the said tenements is completed. For the purposes of this Agreement the "date of completion" will be the date fixed by the Government or their authorised representative or representatives as such date and the decision of the Government or their authorised representative or representatives in this behalf shall be final.

2. On the Loanee(s) satisfying the Government that he is/they are possessed of land (free from any encumbrances whatsoever) on which the tenements shown on the plan annexed hereto and marked Annexure B can be erected and built, the Government shall pay to the Loanee(s) the said loan of Rs. .... ( ) in the following manner:—

(a) when the construction of all the said tenements reaches at least plinth level or later ..... A sum or sums not exceeding Rs. ....

(b) when the construction of all the said tenements reaches at least roof level or later and .... A sum or sums not exceeding Rs. ....

(c) when the construction of all the said tenements is completed.....A sum or sums not exceeding Rs. ....

A subsidy not exceeding a sum of Rs.... ( ) or a sum equal to 25% of the actual cost of construction of all the said tenements, whichever is less, shall be paid to the Loanee(s) in the following manner:—(a) 20% of the subsidy when the construction of all the tenements is completed to the satisfaction of the Government and (b) the balance of the subsidy on the Government receiving and accepting as correct complete and detailed accounts duly audited and certified by a Chartered Accountant, within the meaning of the Chartered Accountants Act, 1949 relating to the cost of complete construction of all the said tenements.

3. The Loanee(s) shall keep the amount received by him/them from the Government as loan from time to time as also the amount required to be contributed by him/them from time to time on account of the construction work of the said tenements in a separate banking account in a scheduled bank to be approved of in writing by the Government and he/they shall utilise the amount so deposited only for the purposes of the construction of the said tenements and for no other purpose whatsoever. The Loanee(s) shall keep and maintain accurate and true accounts of all the moneys expended by him/them on account of the construction of the aforesaid tenements and allow the same to be inspected by the Government or their authorised representative or representatives.

4. The Loanee(s) shall in constructing the said tenements adhere strictly to the plans and specifications annexed hereto and marked Annexure A. No other construction shall be undertaken on the land and premises on which the said tenements are to be constructed/being constructed/constructed without the previous consent of the Government in writing. The Loanee(s) shall make no variations therefrom except with such previous consent.

5. Upon the completion of the said tenements the Loanee(s) shall allot them to his/their employees and to no other person in accordance with the rules of allotment, as amended from time to time. A copy of these rules is annexed hereto as Annexure C.

6. The Loanee(s) shall commence the construction of the said tenements on or before .....day of.....195 , and shall complete the same within a period of.....months and.....days from the date of these presents. The Loanee(s) shall give intimation to the Government in writing immediately upon the commencement of the construction and shall thereafter send detailed reports showing progress of work at the end of each month, unless differently directed by the Government in that behalf.

7. The Loanee(s) shall, at the interval of every 3 months, unless otherwise directed by the Government in this behalf, furnish to the Government a statement of account duly certified and signed by an officer of the Loanee(s) showing the amounts spent by him/them on construction of the said tenements, the first of such statements to be sent on..... The said statement shall be in such form and shall contain such particulars as the Government may from time to time require. The Loanee(s) shall if so required by the Government produce account books maintained by him/them pursuant to clause 3 hereof and vouchers and other papers for purposes of verification of such statements.

8. The Loanee(s) shall provide every facility to the Government or their authorised representative or representatives for the inspection of the said tenements while under construction as well as after construction for the purpose of verifying that the expenditure incurred by the Loanee(s) on the construction of the said tenements has been properly incurred and that the Loanee(s) is/are observing and would continue to observe all the terms and conditions of this Agreement.

9. The Loanee(s) shall pay interest on so much of the loan as may be received by him/them under items (a) and (b) of clause 2 hereof at the rate of  $4\frac{1}{2}$  per cent. per annum being the concessional rate of interest payable by him/them in the event of his/their complying with the terms and conditions of the loan as herein contained, such interest being payable along with the repayment of the first instalment of the said loan as hereinafter provided. The Loanee(s) shall repay to the Government the full amount of the said loan received by him/them in accordance with clause 2 hereof together with interest as herein provided by fifteen annual and equated instalments. The repayment of the loan in the manner aforesaid shall commence from the expiry of one year from the date of the receipt by the Loanee(s) of the last instalment of the said loan as provided in item (c) of clause 2 hereof. PROVIDED ALWAYS that in the event of the Loanee(s) committing a breach of any of the terms and conditions herein contained the Government shall without prejudice to their other rights and remedies available hereunder as well as in law be entitled to recover from the Loanee(s) interest on the said loan or balance thereof for the time being remaining due at the rate of 8 per cent. per annum being the normal rate of interest payable by the Loanee(s) to the Government in respect of the said loan.

10. As security for the repayment of the loan to be granted by the Government and for the performance and observance by the Loanee(s) of all the terms and conditions of this Agreement in his/their part to be observed and performed, the Loanee(s) shall mortgage with the Government the land upon which the tenements are to be constructed as aforesaid as well as all the buildings and structures already erected or to be hereafter erected thereon and shall also hypothecate with the Government all the building materials purchased by him/them for the construction of the said buildings and structures, such mortgage and hypothecation to be in such form as may be required by the Government.

11. The Loanee(s) shall from time to time and at all times during the continuance of these presents keep the premises agreed to be mortgaged and every part thereof in a good and substantial state of repair and working order and shall pay all revenue, ground rent, rates, taxes and assessments present as well as future and all dues, duties and outgoings whatsoever payable in respect of the same immediately they shall become due and payable AND in case the Loanee(s) neglects to keep the premises agreed to be mortgaged or any part thereof in good and substantial repair and working order or to pay the revenue, ground rent, rates, taxes and assessment, dues, duties and outgoings as aforesaid, then and in any of such cases it shall be lawful for but not obligatory upon the Government to repair and keep in good and substantial repair and working order the premises agreed to be mortgaged or any part thereof and to pay any such ground rent, taxes and assessments, dues, duties and outgoings AND all moneys, costs, charges and expenses of such repair and the paying of such revenue, ground rent, rates, taxes and assessments dues, duties and outgoings shall be a charge upon the premises agreed to be mortgaged jointly with all principal moneys and interest hereby secured as if they had formed a part thereof.

12. The rent which the Loanee(s) shall charge to the allottee for the occupation of one tenement shall not exceed Rs.....per month, such monthly rent being inclusive of municipal rates and taxes.

13. The Loanee(s) shall from time to time and at all times during the continuance of these presents keep the premises agreed to be mortgaged insured against loss or damage

by fire, flood, earthquake, cyclone, typhoon, hurricane, lightning and other acts of God as also by riot or other civil commotions or revolutions as also by acts of enemies during war or other risks of war or such of them as may be required by Government from time to time in their full value to be determined by Government in their sole discretion in some insurance office of repute to be approved of in writing by Government and shall assign the policy to Government AND shall pay all premia for renewal of such insurance one week before they shall become due AND shall deliver to and leave with Government all policies of such insurance and all receipts of premia therefor AND all moneys to be received under such policies shall be upon trust for better securing to the Government the repayment of all moneys hereby secured and subject thereto in trust for the Loanee(s) AND that in case the Loanee(s) shall neglect to insure and to keep insured the premises agreed to be mortgaged as aforesaid and pay the renewal premia therefor in manner aforesaid then and in any of such cases it shall be lawful for but not obligatory upon the Government to insure and keep insured the premises agreed to be mortgaged in their full value or any less sum and for such time as the Government shall think proper and to pay the renewal premia therefor AND all moneys costs charges and expenses of the making and continuing of such insurance by the Government as aforesaid and payment of the renewal premia therefor shall be a charge upon the premises agreed to be mortgaged jointly with all principal moneys and interest hereby secured as if they had formed a part thereof AND FURTHER that all sums of money received under or by virtue of any such insurance as aforesaid shall at the option of the Government either be forthwith applied to the extent of the money received in or towards substantially rebuilding reinstating and repairing the premises agreed to be mortgaged or in or towards the payment of the said principal sum and interest and other moneys for the time being remaining due under the security of these presents as herein contemplated.

14. If the Loanee(s) shall make default in the punctual payment of any two consecutive instalments either of principal or of interest or if the Loanee(s) shall become insolvent or go into liquidation or if the Loanee(s) shall fail to observe or perform any of the terms, conditions or stipulations herein contained and/or specified in the pamphlet "Government of India Subsidised Housing Scheme for Industrial Workers [annexed to this Agreement as Annexure D] and on its/their part to be observed or/ performed then and in any such case the whole of the principal amount of the loan or so much thereof as shall then remain due or unpaid as also the whole amount of the subsidy shall become payable forthwith to the Government with interest thereon at the rate of 8% per annum calculated from the date of the payment by the Government of the first instalment of the loan.

15. The Loanee(s) shall not during the continuance of these presents assign or otherwise transfer his/their interest in the land or in the tenements or in this agreement to a third party without the previous consent in writing of the Government.

16. All disputes, differences and questions which may at any time arise between the parties hereto, their respective representatives or assigns, touching or arising out of or in respect of these presents or the subject matter thereof (the settlement of which has not been hereinbefore provided for) shall be referred to the sole arbitration of any person nominated by the Secretary of the Ministry of the Government of India administratively dealing with the contract at the time of such nomination, or if there be no Secretary, the administrative head of such Ministry at the time of such nomination. It will be no objection to any such appointment that the person appointed is a Government servant, that he had to deal with the matters to which the Agreement relates and that in the course of his duties as such Government servant he has expressed views on all or any of the matters in dispute of difference. The award of such arbitrator shall be final and binding on the parties to this Agreement. It is a term of this Agreement that in the event of such arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason, such Secretary or administrative head as aforesaid at the time of such transfer, vacation of office or inability to act, shall appoint another person to act as arbitrator in accordance with the terms of this Agreement. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor. It is also a term of this Agreement that no person other than a person nominated by the Secretary or administrative head of the Ministry as aforesaid should act as arbitrator and if for any reason that is not possible the matter is not to be referred to arbitration at all.

Subject as aforesaid the provisions of the Arbitration Act, 1940 or any statutory modification or re-enactment thereof and of the rules made thereunder for the time being in force shall apply to the arbitration proceedings under this clause.

IN WITNESS WHEREOF the President of India has caused.....in the Ministry of.....  
for and on his behalf to set his hand hereunto and the common seal of  
the above-mentioned Loanee and the said (1).....(2).....(3)..... Company



has been hereunto affixed/have hereunto set their respective hands the day and year first above written.

Signed by.....in the Ministry of.....for and on behalf of the President of India in the presence of:

The Common Seal of the.....Company Limited, has been hereunto affixed pursuant to a Resolution of the Board of Directors of the said.....Ltd., in the presence of.....and.....two of the Directors of the said Company.

Signed by .....and.....two of the Directors of the said.....Ltd., in the presence of

Signed by (1).....(2) .....and (3) .....partners of the..... in the presence of

#### ANNEXURES

#### APPENDIX F—GOVERNMENT OF INDIA SUBSIDISED HOUSING ALLOTMENT RULES

1. These Rules relate to the allotment to industrial workers of houses constructed by employers under the Government of India Subsidised Industrial Housing Scheme.

1. **Definition.**—In these Rules, unless there is anything repugnant in the subject or context:—

(a) "Scheme" means the Government of India Subsidised Industrial Housing Scheme.

(b) "Managing Committee" means the Committee constituted under paragraph 10 of the Scheme.

(c) "Chairman" means the Chairman of the Managing Committee.

(d) "Government" means the State Government concerned or an officer duly authorised by it.

(e) "Worker" means a worker as defined in section 2(1) of the Factories Act, 1948, or "employed" within the meaning of section 2(h) of the Mines Act, 1952, in a mine other than coal or mica mine and in the *bonafide* employment of the employer (or employers) concerned, constructing houses (individually or jointly as the case may be) under the Scheme.

(f) "Family" includes the wife or the husband, children, step children, parents, brothers and sisters as are ordinarily residing and messing with him.

(g) "House" means a tenement constructed under the Scheme together with all installations and appurtenances attached thereto.

(h) "Wages" means the normal monthly wages earned by a worker, including Dearness Allowance and other compensatory allowances, but excluding over-time pay, bonus, travelling allowance, or the cost of any other facility provided (like the C.P.F., gratuity on retirement, free medical attendance, etc.).

3. **Constitution of the Managing Committee.**—(a) The Managing Committee shall consist of:—(i) two or three representatives nominated by the employer (or employers); (ii) an equal number of the representatives of the workers duly elected by ballot conducted by Government; (iii) an official Chairman nominated by Government.

(b) For every meeting of the Managing Committee, the quorum shall be, besides the Chairman, one-half of the total number of members, subject to the condition that at least one each of the representatives of the workers and employer(s) shall be present.

Provided that in case two consecutive meetings of the Managing Committee, for which due notice was given, are not attended by a representative each of workers and employers, the Chairman may, in the third meeting, proceed as if the quorum is complete.

(c) In the event of a difference of opinion, votes shall be taken and the opinion of the majority shall prevail; Chairman voting only in the event of a tie.

(d) The employer(s) shall provide the Managing Committee with such staff and assistance as the Committee may consider necessary.

(e) The members of the Managing Committee shall be appointed for 3 years, but shall be eligible for re-appointment. Casual vacancies arising during the period of 3 years shall be filled up in the same manner as for original appointment but for the remaining period only.

(f) The minutes of the meetings shall be kept in a separate book (known as the Minute Book), especially opened for the purpose. The minutes of each meeting shall be confirmed, with such modifications as may be necessary, at the next meeting and shall be signed by the Chairman.

4. **Eligibility for allotment.**—The houses constructed by the employer(s) under the Scheme shall be allotted only to such workers as are regular and *bonafide* employees of the employer(s) concerned, and are governed by the Factories Act, 1948, or by the Mines Act, 1952.

**5. The Allottees to execute agreements.**—The Allottee shall in all cases execute an agreement or undertaking in the prescribed form in favour of the employer(s) before occupying the house allotted to him to the effect that he is a licensee only in respect of the house and agreeing in all respects to be bound by these Rules and by the terms and conditions of the allotment.

**6. Order of Preference for Allotment.**—A list (or lists if necessary in the light of the provisions of clause 13 of the Scheme) shall be prepared by the Managing Committee of such workers whose wages are not more than Rs. 250/350 and have not already been provided with suitable houses by the employer/employers concerned, and are desirous of allotment of houses constructed under the Scheme. The list shall be arranged in the order of the length of service, provided that the Committee may in its discretion allot out of turn 10 per cent. of the accommodation available, for reasons to be recorded in writing in each case.

**7. Allotments.**—All allotments shall be made by the Managing Committee in the manner laid down in Rule 6 above, and shall be shown in a register to be maintained for the purpose.

**8. Subletting or sharing of accommodation.**—(a) No worker shall sublet a house allotted to him, or any part thereof, to any other worker or person not falling within the definition of "family".

NOTE.—Subletting includes sharing of accommodation with the allottee with or without rent, but does not include a casual guest.

(b) A worker guilty of subletting shall be subject to such action as the Managing Committee may decide to take against him including cancellation of allotment, enhancement of rent, imposition of fine, etc., provided that: (i) no penalty shall be imposed without giving the allottee an opportunity to explain his case verbally or in writing; (ii) such penalties as cancellation of allotment shall be imposed only in cases where a case of subletting is established or where the allottee persists in his offences despite warning/notices issued to him

**9. Cancellation of Allotment.**—An allotment under these rules shall be effective from the date on which a house is occupied by the worker, and shall continue until:—

(a) the worker ceases to occupy the house; or

(b) it is surrendered by the worker concerned; or

(c) it is otherwise cancelled by the Managing Committee, under the provisions of Rule 8 (b) above.

Provided that where a worker dies while in the service of the employer(s) concerned or goes on transfer, or retires, or resigns, or goes on medical leave or where a worker's services are terminated by the employer(s), the allotment may, with the previous approval of the Managing Committee, continue up to the period as detailed below:—(i) in the case of death or transfer, a period not exceeding two months; (ii) in the case of retirement, resignation or termination of service, a period not exceeding one month; and (iii) in the case of medical or ordinary leave, for the period of leave.

Provided further that eviction of a worker shall not be proceeded with by the employer(s) without the prior approval of the Managing Committee.

**10. Rent.**—The rent recoverable by the employer(s) in respect of a house allotted to a worker shall not exceed the amount of rent provided in the Scheme or such maximum rent as may be fixed by the Government of India while approving the specifications of the houses in question, whichever may be less. Rent will be deducted at source. It shall be in the nature of damages for use and occupation and the occupants shall in all cases be licensees.

**11. General.**—Subject to the provisions of these Rules, it shall be within the competence of the Managing Committee to lay down details of procedure for (i) allotments, (ii) issue of notices calling for meetings of the Managing Committee and drawing up agenda therefor, and (iii) any other matter arising out of the application of these Rules.

**12.** In all matters concerning interpretation of these Rules, the decision of the Government of India shall be final.

**13.** The Government of India shall have the right to vary, add to, cancel or amend all or any of these Rules.

#### AGREEMENT

Certified that I have read the Rules governing the allotment of houses constructed by Messrs.....at..... under the Government of India Subsidised Industrial Housing Scheme or that the Rules have been explained to me and declare that the allotment to be made to me or already made to me shall be subject to these Rules and subsequent amendments, if any, thereto and the terms and conditions of the allotment and that I am a licensee only in respect of the house. When the house is no longer required by me or I cease to be entitled to it or the allotment is cancelled by the Managing

Committee under the Rules, I shall be responsible for handing over its vacant possession to the Managing Committee on expiry of the period as provided in the Rules and until such vacant possession is delivered, rent and other charges in respect of the house as may be determined by the Managing Committee shall be recoverable from me.

Dated:

Signature:

Witnesses:

Designation:

Name of Employer:

#### APPENDIX G—SUBSIDISED INDUSTRIAL HOUSING SCHEME

##### QUESTIONNAIRE.

1. Name and brief description of the project showing exact location.
2. Total population of the town according to the latest census.
3. Distance of the factory from the proposed colony.
4. If distance is more than 2 miles, what are the transport arrangements available or proposed?
5. Number of tenements to be built: Single-roomed Double-roomed.  
(i) Single-storeyed tenements; (ii) Double-storeyed tenements; (iii) Multi-storeyed tenements:
6. (a) Do the specifications for the tenements conform with those laid down in the Scheme? If not, what are the deviations and the reasons for them? What will be the extra cost/saving per tenement as a result of these deviations?  
(b) What is the proposed density of tenements per gross acre in the colony?
7. Cost per tenement (exclusive of the cost of land): Single roomed Double roomed.  
(i) Single-storeyed tenement; (ii) Double-storeyed tenement; (iii) Multi-storeyed tenement.
8. (a) Is land in your possession? If so, on what terms?  
(b) Is your title to the land clear and free of all encumbrances? (Please produce reliable evidence, as no aid can be given without it).  
(c) Is the land acquired specially for this purpose, if so, give evidence as to the date of possession?  
(d) Is it proposed to acquire the land now? If so, how much and at what cost?  
(e) What will be the cost of land at (d) above per tenement?  
(f) If the land already acquired or proposed to be acquired is not developed, what will be the cost per tenement on its development?  
(g) What is the basis on which the price of land as given has been arrived at?
9. What is the gross area of land to be utilised under the project?
10. Do you propose to provide any extra amenities like schools, dispensaries, shops, recreational facilities, etc. in your project? If so, give details and cost.
11. For whom are the tenements meant? Are these persons governed by the Factories Act, 1948, or Mines Act, 1952? (The number of workers governed by either of the Acts and the industry they are employed in may be given separately.)
12. (a) How many tenements, etc. have you already provided for the class of persons now proposed to be benefitted by this Scheme?  
(b) On what terms and conditions have you allotted these tenements?  
(c) Indicate the rents which you propose to charge for the tenements to be constructed.
13. (a) In how many months do you intend to complete the project?  
(b) How soon after your project is sanctioned will you be able to commence construction?
14. (a) What is the amount of subsidy you require for the project?  
(b) What is the amount of loan you require for the project?  
(c) How do you intend to meet the balance of the cost of the entire project?
15. Do you agree to the execution of the Agreement prescribed under the Scheme and follow the Allotment Rules?
16. (For State Governments and Statutory Housing Boards only).  
(a) What is the industrial population (governed by Factories Act, 1948 and Mines Act, 1952 other than those employed in coal and mica mines) of your State?  
(b) What proportion of it is provided with minimum standards of residential accommodation by (i) Government or other semi-statutory agencies and (ii) private agencies?  
(c) What is the industrial population of the city in which the proposed project is to be constructed?  
(d) What proportion of it is provided with minimum standards of residential accommodation by (i) Government or other statutory agencies and (ii) private agencies?
17. (For employers only) Have you paid your income-tax dues? If so, please enclose your Income-tax clearance certificate.

# INDUSTRIAL RELATIONS LEGISLATION



## **INDUSTRIAL RELATIONS. LEGISLATION**

### **International Standards on Industrial Relations**

From 1921 to 1952, the International Labour Conference has adopted the following three Conventions and three Recommendations on Industrial Relations.

Right of Association (Agriculture) Convention No. 11 adopted in 1921 deals with the rights of association and combination of agricultural workers and requires every member ratifying the Convention to secure for all agricultural workers the same rights of association and combination like industrial workers. This Convention was ratified by India in 1923.

Freedom of Association and Protection of the Right to Organise Convention No. 87 adopted in 1948 provides that workers and employers have the right to establish and join organisations of their own choosing without previous authorisation and further provides that workers' and employers' organisations have the right to draw up their constitutions and rules and organise their administration and activities and formulate their programmes without any intervention of public authorities and affirms the right of these organisations to join federations and confederations and to affiliate with international organisations.

Right to Organise and Bargain Collectively Convention No. 98 adopted in 1949 concerns the application of the principles of the right to organise and bargain collectively and ensures free exercise of trade union rights by providing for the workers adequate protection against acts of anti-union discrimination regarding their employment and further provides for adoption of measures to encourage and promote full development and utilisation of machinery for voluntary negotiation between employers' and workers' organisations, with a view to the regulation of the terms and conditions of employment by means of collective agreements.

Collective Agreements Recommendation No. 91 adopted in 1951 calls for establishment of Collective Bargaining Machinery to negotiate, conclude, revise and renew collective agreements. "Collective Agreements" mean all agreements in writing regarding working conditions and terms of employment concluded between an employer on the one hand and representative workers' organisation on the other.

Voluntary Conciliation and Arbitration Recommendation No. 92 adopted in 1951 calls for the establishment of voluntary conciliation machinery to assist in the prevention and settlement of industrial disputes between the employers and workers and provides that if a dispute has been submitted to voluntary arbitration for final settlement, the parties shall abstain from strikes and lock-outs and accept the arbitration award.

Co-operation at the Level of the Undertaking Recommendation No. 98 adopted in 1952 concerns consultation and co-operation between employers and workers at the level of the undertaking and provides that such consultation and co-operation should be promoted between the employers and workers at the level of undertaking on matters of mutual concern not within the scope of collective bargaining machinery nor dealt with by other machinery concerned with the terms and conditions of employment.

### **Indian Legislation on Industrial Relations**

#### **Ahmedabad Experiment**

There was no legislative provision for settlement of industrial disputes in India prior to the enactment of the Trade Disputes Act in 1929. The Employers and Workmen (Disputes) Act of 1860, repealed in 1932, provided for speedy determination of disputes relating to wages of certain category of workmen.

In Ahmedabad cotton mill industry, a novel technique of labour-management relations was initiated at the instance of Mahatma Gandhi. Since 1920, there was a permanent arbitration board consisting of the representatives of labour and employers. It was mutually agreed between the Ahmedabad Millowners' Association and the Ahmedabad Labour Union that all grievances should, in the first instance, be discussed between the workers themselves and the management of the mills concerned. If no settlement was arrived at, the matter was reported by the Labour Union to the Millowners' Association and discussion was held for amicable settlement. In case no settlement was made, the matter was finally referred to the permanent arbitration board.

The special feature of the Ahmedabad experiment is that labour disputes can best be settled by mutual negotiation and voluntary arbitration. A Collective Agreement was also executed on the 8th July, 1952 for settlement of all disputes by voluntary arbitration. After expiry of this agreement, two agreements were executed on the 27th June, 1955—one for principles governing payment of Bonus for five years and the other for settlement of all industrial disputes by voluntary arbitration.

Sri Somnath P. Dave, Secretary of the Ahmedabad Textile Labour Association explained the genesis of the 1952 agreement as follows: "It must be said that this agreement is in a manner of speaking, the result of the realisation on the part of both the parties that the system of settlement through law courts and continuing maintenance of a state of frayed tempers and emotional excitement worsens rather than improves the industrial situation, at any given time. In the atmosphere engendered by appeals and counter-appeals, legal quibbling, reference to Labour Courts, the Supreme Court and so on, the Trade Union cannot grow to its full stature, nor can the industrialist have peace or advantage."<sup>1</sup>

### Trade Disputes Act, 1929 (VI of 1929)

The Trade Disputes Act was undertaken by the Central Government on the model of the Industrial Courts Act, 1919 (U.K.) for providing a conciliation machinery to bring about peaceful settlement of industrial disputes. The Act contains provisions for rendering lightning strikes in public utility concerns a punishable offence on the model of Trade Disputes and Trade Unions Act of 1927 (U.K.). The Act was amended in 1938 authorising Central and Provincial Governments to appoint Conciliation Officers for mediating or promoting settlement of trade disputes. The Act was not properly applied by the Central and Provincial Governments for settlement of industrial disputes.

### Royal Commission on Labour in India, 1931

The Royal Commission on Labour in their report noted the demand for introduction of compulsory method for settling trade disputes, but did not agree to it and remarked, "We believe that the effect on industry would be disastrous if there was general tendency to look to some external authority to preserve industrial peace and to discourage settlement by industry itself."<sup>2</sup> The Commission regretted that conciliation which was the most useful form of State assistance was scarcely employed in India and "India has tried to copy the less valuable part of the machinery employed in Great Britain while ignoring the most valuable part."<sup>3</sup>

<sup>1</sup> Somnath P. Dave's article—Ahmedabad Makes History (Asian Labour, Vol. III, No. 1, October, 1952, p. 55.)

<sup>2</sup> Report of Royal Commission on Labour in India, 1931, p. 345.

<sup>3</sup> *Ibid.*, p. 346.

**Industrial Disputes Act, 1947 (XIV of 1947)**

During the war, certain emergency measures were adopted by the Central Government under 81A of the Defence of India Rules, for settlement of industrial disputes by compulsory reference to conciliation and arbitration and for prohibiting strikes and lock-outs during these proceedings. The Industrial Disputes Act of 1947 was based on the main provisions of this emergency legislation and for the first time compulsory methods of settlement of industrial disputes were adopted in India.

**Resolution on Industrial Truce, 1947**

A tripartite Conference to discuss some urgent problems relating to industrial development in India and to bring industrial peace, was convened by the Industry and Supply Minister of the Government of India, in December, 1947. The Resolution on Industrial Truce which was unanimously adopted by the representatives of Governments, employers and industrial labour, recommended (1) fullest use of statutory and other machinery for resolution of industrial disputes in a just and peaceful manner, (2) establishment of machinery for study and determination of fair wages and conditions of labour and fair remuneration to capital and methods for labour's association in all matters concerning industrial production and (3) constitution of works committees for settlement of day-to-day disputes and called upon labour and management to maintain industrial peace and to avert lock-outs, strikes or slowing down of production during the next three years.

**Proposal for New Industrial Relations Legislation**

After prolonged discussions in different tripartite conferences and committees, two comprehensive Bills on Labour Relations and Trade Unions were introduced in the Parliament in January, 1950 by the Labour Minister Sri Jagjiwan Ram, but they lapsed when the Parliament dissolved for general election.

Sri V. V. Giri, after becoming Labour Minister, circulated an elaborate Questionnaire on Industrial Relations, in July, 1952, covering both industrial relations and trade unions, to all Governments, employers' and workers' organisations for their views and comments. The matter was discussed in the twelfth session of the Indian Labour Conference held at Naini Tal in October, 1952.

Sri Giri's speech in the conference covered the entire ground of industrial relations and his method of approach was to improve the unsatisfactory relations which were the results of legislative enactments. In the concluding speech he remarked: "On the question of basic policy, it is abundantly clear that all sections of the House without exception wish to see a much greater measure of emphasis being placed on collective bargaining and mutual settlement of disputes through voluntary conciliation and voluntary arbitration."<sup>4</sup>

**Planning Commission on Industrial Relations**

In the First Five Year Plan, the Planning Commission recommended that there should be harmonious relations between capital and labour and industrial relations should be so developed as to enable the worker to take a greater share in the working of the industry and there should be closest co-operation at all levels between employers and workers for increased production. The Commission further recommended that "the workers' right to association, organisation and collective bargaining should be accepted as fundamental to the mutual relations of labour and capital" and difference between capital and labour should

<sup>4</sup> Proceedings of the Indian Labour Conference, Twelfth Session, 1952, p. 158.



be settled in a spirit of mutual adjustment, impartial investigation and arbitration.

In the Second Five Year Plan, the Planning Commission suggested that the best solution to common problems of labour can best be settled by mutual agreement. The Commission stressed the importance of preventive measures for achieving industrial peace and placed great emphasis "on the avoidance of disputes at all levels, including the last stage of mutual negotiations, namely, conciliation" and suggested introduction of the system of conciliation machinery to keep in touch with trade union leaders and employers when there is no dispute and to discuss the matters likely to cause dispute in future. The Commission suggested recourse to mutual negotiation and voluntary arbitration in case of disputes and proposed suitable machinery by the Central and State Governments for facilitating these stages. The Commission proposed joint consultative machinery at all levels and association of labour with management.

### **Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (XXXVI of 1956)**

As discussed in the Joint Consultative Board of Industry and Labour and as approved in the Second Five Year Plan, the Central Government enacted the above legislation amending the Industrial Disputes Act, simplifying the procedure of adjudication through Labour Courts, Industrial Tribunals and National Tribunals, abolishing the Labour Appellate Tribunal and removing difficulties experienced by employers in the administration of section 33 of the Act. The Amending Act also made certain essential amendments to the Industrial Employment (Standing Orders) Act, 1946 empowering the Certifying Officer and Appellate Authority to take into account the fairness or reasonableness of standing orders before certification.

### **Present Industrial Relations Legislations in India**

The existing laws on the subject are being discussed under the following headings:

- (1) Industrial Employment Standing Orders Legislation
- (2) Trade Union Legislation
- (3) Industrial Dispute Legislation

## **INDUSTRIAL EMPLOYMENT STANDING ORDERS LEGISLATION**

### **Standing Orders in Industrial Establishments**

Standing orders defining conditions of service, *viz.*, recruitment, discharge, disciplinary action, holidays, leave etc., tend to minimise friction between the workers and their employers in industrial undertakings. The tripartite Labour Conference discussed the subject in 1943, 1944 and 1945 and decided in favour of such legislation.

### **Industrial Employment (Standing Orders) Act, 1946 (XX of 1946)**

A Bill providing for framing of standing orders defining conditions of employment in all industrial establishments employing one hundred or more workers was introduced by the Central Government in the Legislative Assembly on 8th April, 1946. The Industrial Employment (Standing Orders) Act, 1946 (XX of 1946) which came into force on 23rd April, 1946 applies to a wide range of industrial enterprises, including factories, railways, mines, quarries or oil fields, plantations, workshops, inland steamer vessels, docks, wharves or jetties, and tramways or motor omnibus services employing 100 or more workers. The Act extends to the whole of India except the State of Jammu and Kashmir.

**Main Provisions of Act XX of 1946**

The main provision of the Act is to require employers of industrial establishments employing 100 or more workers to frame draft standing orders relating to the terms of service governing the employment of the workers and submit five copies thereof to the Certifying Officer for certification. The Certifying Officer is required to forward one copy to the trade union or in its absence to the workers for giving them an opportunity of raising objections. The Certifying Officer is empowered to modify or add to the draft standing orders and there is a right of appeal against his decision. The Act does not apply to those industries to which the provisions of Chapter V of the Bombay Industrial Disputes Act, 1938<sup>1</sup> (standing orders regarding industries) applied before the passing of the Act. The Act requires the display of the standing orders in English and in the language of the majority of the workers near the entrance to the factory and in the departments. Standing orders, as finally certified cannot be modified, except on an agreement between the employer and the workmen, until the expiry of six months.

The Central Government and the State Governments are empowered to extend the scope of the Act to any other class of industrial employment or exempt it from all or any of the provisions.

**Administration of the Act**

The Act is administered in the case of railways, major ports, mines, oilfields by the Central Government and in all other concerns by the State Governments. The Central Government have appointed the Chief Labour Commissioner (Central) to exercise the functions of the Appellate Authority and the Regional Labour Commissioners to perform duties of Certifying Officers. The State Governments have appointed Certifying Officers and Appellate Authorities for the purposes of the Act.

**Industrial Employment (Standing Orders) Rules, 1946**

The Government of India published the Industrial Employment (Standing Orders) Central Rules, 1946 on the 18th December, 1946 containing model standing orders. These Rules apply to industrial establishments under the control of the Central Government, railways, major ports, mines and oilfields throughout India.

Industrial Employment (Standing) Orders Rules were also framed by the State Governments and industrial establishments employing 100 workers or more have been advised to adopt the model standing orders contained therein.

**Extension of the Act by State Governments**

In May, 1949 the Government of Assam extended the Act to all industrial establishments (except mines, quarries, oilfields and railways) which employed 18 or more workers. The Government of Uttar Pradesh extended the Act to electric supply undertakings, water works and industrial establishments engaged in glass industry as well as to the member establishments of the Employers' Association of Northern India and U. P. Oil Millowners' Association. In November, 1950, the U. P. Government extended the Act to all industrial establishments employing less than 100 workers if the employers voluntarily apply for certification. In January, 1952 the Government of West Bengal extended the Act to all industrial establishments employing 50 or more workers.

**Amendment of the Act by State Governments**

The Government of Saurashtra passed the Industrial Employment Standing Orders (Saurashtra Amendment) Act in 1953 providing for application of the

<sup>1</sup> See now Chapter VII of the Bombay Industrial Relations Act, 1946 (XI of 1947)

model standing orders notified by the State Government to an industrial establishment until the standing orders in respect of that establishment comes into operation. This amendment was undertaken for the purpose of eliminating the difficulties and inconveniences due to the delay in the matter of certification of standing orders.

The Government of Bombay amended the Industrial Employment (Standing Orders) Act 1956 in 1955 and extending the definitions of the words "workmen" and employer".

### **Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (XXXVI of 1956)**

The Amending Act empowers the Certifying Officer and the Appellate Authority to examine the fairness or reasonableness of the standing orders before they are certified. It confers a right on the workmen to take steps to modify the standing orders. It amends and extends the definition of "workman." It further provides that if any question arises between the parties as to the application and interpretation of the standing orders, the same may be referred to the Labour Court by either of the parties without intervention of the appropriate Government.

### **INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (XX OF 1946)**

#### **Statement of Objects and Reasons<sup>1</sup>**

Experience has shown that 'standing orders' defining the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc., go a long way towards minimising friction between the management and workers in industrial undertakings. Discussion on the subject at the tripartite Indian Labour Conference revealed a consensus of opinion in favour of legislation. The Bill accordingly seeks to provide for the framing of 'standing orders' in all industrial establishments employing one hundred or more workers.

In the first instance the Act will apply to the categories of industrial establishments specified in clause (2) (e), which include, besides factories and railways, mines, quarries and oilfields, tramway or motor, omnibus services, docks, wharves and jetties, inland steam vessels, plantations and workshops. Government will be competent to extend the Act to other classes of industrial establishments or to grant exemptions where necessary, by notification.

Within 6 months from the date on which the Act becomes applicable to an industrial establishment the employer is required to frame draft 'standing orders' and submit them to the Certifying Officer for certification. The draft should cover all the matters specified in the Schedule to the Act and any other matters that Government may prescribe by rules. The Certifying Officer will be empowered to modify or add to the draft standing orders so as to render them certifiable under the Act. It will not be his function (nor of the Appellate Authority) to adjudicate upon their fairness or reasonableness.<sup>2</sup> There will be a right of appeal against the decisions of the Certifying Officers.

### **INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (XX OF 1946)**

#### **Arrangement of Sections**

1. Short title, extent and application.
2. Interpretation.
3. Submission of draft standing orders.
4. Conditions for certification of standing orders.
5. Certification of standing orders.
6. Appeals.
7. Date of operation of standing orders.

<sup>1</sup> Gazette of India, 1946, Part V, pages 179-180.

<sup>2</sup> S. 32 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 empowers them to examine the fairness or reasonableness of standing orders before certification.

8. Register of standing orders.
  9. Posting of standing orders.
  10. Duration and modification of standing orders.
  11. Certifying Officers and Appellate Authorities to have powers of Civil Court.
  12. Oral evidence in contradiction of standing orders not admissible.
  13. Penalties and procedure.
  - 13A. Interpretation, etc. of standing orders.
  - 13B. Act not to apply to certain industrial establishments.
  14. Power to exempt.
  15. Power to make rules.
- SCHEDULE.

## INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (XX OF 1946)<sup>1</sup>

*An Act to require employers in industrial establishments formally to define conditions of employment under them.*

[23rd April, 1946]

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them:

It is hereby enacted as follows:—

**1. Short title, extent and application.**—(1) This Act may be called the Industrial Employment (Standing Orders) Act, 1946.

(2) It extends to “[the whole of India]”<sup>2</sup> [except the State of Jammu and Kashmir].

(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months, and to such class or classes or other industrial establishments as the appropriate Government may from time to time, by notification in the official Gazette, specify in this behalf:

Provided that nothing in this Act shall apply to any industry to which, before the commencement of this Act, the provisions of Chapter V of the Bombay Industrial Disputes Act, 1938 (Bombay Act XXV of 1938), have been applied.

**2. Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,

(a) “Appellate Authority” means an Industrial Court, wherever it exists or in its absence an authority appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification, the functions of an appellate authority under this Act;

(b) “appropriate Government” means in respect of industrial establishments under the control of the Central Government or a “[Railway Administration]” or in a major port, mine or oilfield, the Central Government, and in all other cases, the “[State]” Government;

(c) “Certifying Officer” means the Labour Commissioner wherever he exists or in his absence an officer appointed by the appropriate Government by notification.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, pages 179-180; see also page 1312 ante.

<sup>2</sup> Subs. by the A.O. 1950 for “all the Provinces of India.”

<sup>3</sup> Subs. by Act III of 1951 for “except Part B States.”

<sup>4</sup> Subs. by the A.O. 1950 for “Federal Railway.”

<sup>5</sup> Subs., *ibid.*, for “Provincial.”

tion in the official Gazette to exercise in such area as may be specified in the notification, the functions of a Certifying Officer under this Act;

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes—

(i) in a factory, any person named under clause (e) of sub-section (1) of section 9 of the 'Factories Act, 1934 (XXV of 1934), as manager of the factory;

(ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the department;

(iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means—

(i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936), or

(ii) a factory as defined in clause (j) of section 2 of the Factories Act, 1934,<sup>6</sup> or

(iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (IX of 1890), or

(iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

(f) 'prescribed' means prescribed by rules made by the appropriate Government under this Act;

(g) "standing orders" means rules relating to matters set out in the Schedule;

(h) "trade union" means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (XVI of 1926).

7[(i) "workman" means any person (including an apprentice) employed in any industrial establishment to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, but does not include any such person—

(i) who is subject to the Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950), or the Navy (Discipline) Act, 1934 (34 of 1934); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

**3. Submission of draft standing orders.**—(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall, so far as is practicable, in conformity with such model.

<sup>6</sup> See now the Factories Act, 1948 (63 of 1948).

<sup>7</sup> This clause was substituted by s. 32 of the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956. (36 of 1956).

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

**4. Conditions for certification of standing orders.**—Standing orders shall be certifiable under this Act if—

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(b) the standing orders are otherwise in conformity with the provisions of this Act;

and it <sup>8</sup>[shall be the function] of the Certifying Officer or Appellate Authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

**5. Certification of standing orders.**—(1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

**6. Appeals.**—(1) Any person aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within twenty-one days from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The Appellate Authority shall, within seven days of its order under sub-section (1), send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

**7. Date of operation of standing orders.**—Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty

<sup>8</sup> Subs. by s. 32, *ibid* for "shall not be the function".

days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

**8. Register of standing orders.**—A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

**9. Posting of standing orders.**—The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

**10. Duration and modification of standing orders.**—(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

°[(2) Subject to the provisions of sub-section (1), an employer or workman may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five copies of the standing orders in which shall be indicated the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen, a certified copy of that agreement shall be filed along with the application];

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

**11. Certifying Officers and Appellate Authorities to have powers of Civil Court.**—Every Certifying Officer and Appellate Authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

**12. Oral evidence in contradiction of standing orders not admissible.**—No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.

**13. Penalties and procedure.**—(1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders, otherwise than in accordance with section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a

° Subs. by s. 32, *ibid.*

continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of a Presidency Magistrate or Magistrate of the second class shall try any offence under this section.

<sup>10</sup>[13A. **Interpretation, etc., of standing orders.**—If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947 (XIV of 1947) and specified for the disposal of such proceeding by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.]

**13B. Act not to apply to certain industrial establishments.**—Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.]

**14. Power to exempt.**—The appropriate Government may by notification in the official Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

**15. Power to make rules.**—(1) The appropriate Government may, after previous publication, by notification in the official Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such authorities;

(b) set out model standing orders for the purposes of this Act;

(c) prescribe the procedure of Certifying Officers and Appellate Authorities;

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(e) provide for any other matter which is to be or may be prescribed:

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

#### THE SCHEDULE—[See sections 2(g) and 3(2)]

##### *Matters to be provided in Standing Orders under this Act*

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or *badlis*.

2. Manner of intimating to workmen periods and hours of work, holidays, pay days and wage rates.

<sup>10</sup> Sections 13A and 13B inserted by s. 32, *ibid*.



3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reopening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed.

### INDUSTRIAL EMPLOYMENT (STANDING ORDERS) CENTRAL RULES, 1946<sup>1</sup>

In exercise of the powers conferred by section 15, read with clause (b) of section 2, of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section 15, namely:—

1. (1) These rules may be called the Industrial Employment (Standing Orders) Central Rules, 1946.

(2) They extend to all Part C States and shall also apply to industrial establishments under the control of the Central Government, or a railway administration or in a major port, mine or oilfields, any Part A or Part B State.

2. In these rules, unless there is anything repugnant in the subject or context:—

(a) 'Act' means the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).

(b) 'Form' means a form set out in Schedule II appended to these Rules.

3. The model Standing Orders for the purposes of the Act shall be those set out in Schedule I appended to these Rules.

4. An application for certification of Standing Orders shall be made in Form I.

5. The prescribed particulars of workmen, for the purposes of sub-section (3) of section 3 of the Act shall be:—

(1) Total number employed;

(2) Number of permanent workmen;

(3) Number of temporary workmen;

<sup>2</sup>[(3A) Number of casual workmen];

(4) Number of badlis or substitutes;

(5) Number of probationers;

(6) Number of apprentices;

(7) Name of the trade union or trade unions, if any, to which the workmen belong;

(8) Remarks.

6. As soon as may be after he receives an application under rule 4 in respect of an industrial establishment, the Certifying Officer shall—

(a) where there is a trade union of the workmen, forward a copy of the draft Standing Orders to the trade union together with a notice in Form II;

(b) where there is no such trade union, call a meeting of the workmen to elect three representatives, to whom he shall, upon their election, forward a copy of the draft Standing Orders together with a notice in Form II.

<sup>1</sup> These Rules were published under the Department of Labour Notification No. L.R. 11(37) dated the 18th December, 1946.

<sup>2</sup> Ins. by Notification No. L.R. 11/11(10)/55, dated the 24th February, 1956.

7. Standing Orders certified in pursuance of sub-section (3) of section 5 or sub-section (2) of section 6 of the Act shall be authenticated by the signature and seal of office of the Certifying Officer or the Appellate Authority, as the case may be, and shall be forwarded by such officer or authority within a week of authentication by registered letter post to the employer and to the trade union, or, as the case may be, the representatives of the workmen elected in pursuance of rule 6.

8. The register required to be maintained by section 8 of the Act shall be in Form III and shall be properly bound and the Certifying Officer shall furnish a copy of Standing Orders approved for an industrial establishment to any person applying therefor on payment of a fee of rupee one a copy.

**SCHEDULE I—Model Standing Orders**

1. These orders shall come into force on.....

2. **Classification of workmen.**—(a) Workmen shall be classified as—(1) permanent; (2) probationers; (3) badlis; (4) temporary; (5) casual; (6) apprentices.

(b) A "permanent" workman is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment, including breaks due to sickness, accident, leave, lockout, strike (not being an illegal strike) or involuntary closure of the establishment.

(c) A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A "badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "temporary" workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A "casual" workman is a workman whose employment is of a casual nature.

(g) An "apprentice" is a learner who is paid an allowance during the period of his training.

3. **Tickets.**—(1) Every workman shall be given a permanent ticket unless he is a probationer, badli, temporary worker or apprentice.

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, on being required to do so, show it to any person authorised by the manager to inspect it.

(3) Every badli shall be provided with a badli card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a 'temporary' ticket which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a 'casual' card, on which shall be entered the days on which he has worked in the establishment.

(6) Every apprentice shall be provided with an 'apprentice' card, which shall be surrendered if he obtains permanent employment.

4. **Publication of working time.**—The periods and hours of work for all classes of workers in each shift shall be exhibited in English and in the principal languages of workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

5. **Publication of holidays and pay days.**—Notices specifying (a) the days observed by the establishment as holidays and (b) pay days shall be posted on the said notice boards.

6. **Publication of wage rates.**—Notices specifying the rates or wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

7. **Shift working.**—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given, prior to such discontinuance, provided that no such notice will be necessary if,

as a result of the discontinuance of the shift, no permanent employee will be discharged. If as a result of discontinuance of shift working, any permanent workmen are to be discharged, they shall be discharged having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is re-started, a week's notice thereof shall be given by posting a notice at the main entrance to the establishment and the time-keeper's office if any; and the workmen discharged as a result of the discontinuance of the shift, shall if they present themselves at the time of the re-starting of the shift, have preference in being re-employed, having regard to the length of their previous service under the establishment, those with the longest term of service being re-employed first.

**8. Attendance and late coming.**—All workmen shall be at work at the establishment at the times fixed and notified under paragraph 4. Workmen attending late will be liable to the deductions provided for in the Payment of Wages Act, 1936.

**9. Leave.**—(1) Holidays with pay will be allowed as provided for in Chapter IVA of the Factories Act, 1934<sup>3</sup>, and other holidays in accordance with law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the manager, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof he shall apply to the manager who shall send a written reply either granting or refusing extension of leave to the workman if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within 8 days of the expiry of the leave and (b) explains to the satisfaction of the manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the 'badli' list.

**10. Casual leave.**—A workman may be granted casual leave of absence with or without pay not exceeding 10 days in the aggregate in a calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken, but when this is not possible, the head of the department shall, as soon as may be practicable, be informed in writing of the absence from and of the probable duration of such absence.

**11. Payment of wages.**—(1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

**12. Stoppage of work.**—(1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the departments concerned, or at the office of the manager, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which

<sup>3</sup> See now the Factories Act, 1948 (63 of 1948), Ch. VIII.

they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. No other compensation will be admissible in case of such stoppages. Whenever practicable, reasonable notice shall be given of resumption of normal work.

(3) In case where workmen are laid off for short periods on account of failure of plant or a temporary curtailment of production, the period of unemployment shall be treated as compulsory leave either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the timekeeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

**13. Termination of employment.**—(1) For terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workman—one month's notice in the case of monthly-rated workmen and two weeks' notice in the case of other workmen: one month's or two weeks' pay, as the case may be, may be paid in lieu of notice.

(2) No temporary workman whether monthly-rated, weekly-rated or piece-rated and no probationer or badli shall be entitled to any notice or pay in lieu thereof if his services are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14.

(3) Where the employment of any workman is terminated the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

**14. Disciplinary action for Misconduct.**—(1) A workman may be fined up to two per cent. of his wages in a month for any of the following acts and omissions, namely:—

**NOTE.**—Specify the acts and omissions which the employer may notify with the previous approval of the Government or of the prescribed authority in pursuance of Section 8 of the Payment of Wages Act, 1936.

(2) A workman may be suspended for a period not exceeding four days at a time, or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct.

(3) The following acts and omissions shall be treated as misconduct:—

(a) wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior,

(b) theft, fraud, or dishonesty in connection with the employer's business or property,

(c) wilful damage to or loss of employer's goods or property,

(d) taking or giving bribes or any illegal gratification,

(e) habitual absence without leave or absence without leave for more than 10 days,

(f) habitual late attendance,

(g) habitual breach of any law applicable to the establishment,

(h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline,

(i) habitual negligence or neglect of work,

(j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent. of the wages in a month,

(k) striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the manager of the establishment or where there is no manager, of the employer is required in every case of dismissal and, when circumstances appear to warrant it, the manager or the employer may institute independent enquiries before dealing with charges against a workman:

<sup>4</sup>[Provided that in the case of workmen to whom the provisions of article 311 of clause (2) of the Constitution of India apply, the provisions of that article shall be complied with.]

(5) An order of suspension shall be in writing and may take effect immediately on delivery to the workman. Such order shall set out in detail the alleged misconduct and the workman shall be given an opportunity of explaining the circumstances alleged against him. If on enquiry the order is confirmed, the workman shall be deemed to have been absent from duty for the period of suspension and shall not be entitled to any remuneration for such period. If however, the order is rescinded, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been suspended.

(6) In awarding punishment under this standing order, the manager shall take into account the gravity of the misconduct, the previous record, if any, of the workmen and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the manager shall be supplied to the workman concerned.

**15. Complaints.**—All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or other person specified in this behalf with the right of appeal to the employer.

**16. Certificate on termination of service.**—Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

**17. Liability of manager.**—The manager of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders.

**18. Exhibition of standing orders.**—A copy of these orders in English and in shall be posted at the manager's office and on a notice board maintained at or near the main entrance to the establishment and shall be kept in a legible condition.

## SCHEDULE II

### FORM I

[Industrial Employment (Standing Orders) Act, 1946—Section 3].

Dated

19 .

To

The Certifying Officer. <sup>5</sup>[ \* \* ]  
(Area) (Place)

Sir,

Under the provisions of section 3 of the Industrial Employment (Standing Orders) Act, 1946, I enclose five copies of the draft standing orders proposed by me for adoption in

(Name)

(Place)

(Postal address)

an industrial establishment owned/controlled by me, with the request that these orders may be certified under the terms of the Act. I also enclose a statement giving the particulars prescribed in rule 5 of the Industrial Employment (Standing Orders) Central Rules, 1946.

I am etc. (Signature)

Employer/Manager.

### FORM II

[Notice under section 5 of the Industrial Employment (Standing Orders) Act, 1946.]

Office of the Certifying Officer for area, place Dated the 19 .

I, Certifying Officer, area, forward herewith a copy of the draft standing orders proposed by the employer for adoption in the industrial establishment and submitted to me for certification under the Industrial Employment (Standing Orders) Act, 1946. Any objections which the workmen may desire to make

<sup>4</sup> Proviso inserted by Notification No. S.R.O. 861 dated 26th October, 1950.

<sup>5</sup> The words "Central Government" omitted by Notification No. S.R.O. 1505 dated the 25th July, 1953.

to the draft standing orders should be submitted to me within fifteen days from the receipt of this notice.

(Certifying Officer)

Seal

To

The Secretary

Union.

Representative elected under Rule 6 { Name  
Occupation  
Industrial establishment.

### FORM III

[Industrial Employment (Standing Orders) Act, 1946—Section 8]

Register—Part I

Industrial Establishment

Serial No	Date of the despatch of the copy of standing orders authenticated under section 5 for the first time	Date of filing appeal	Date and nature of decision	Amendment made on appeal, if any	Date of the despatch of the copy of the standing orders as settled on appeal	Any notice subsequently given or received of any amendment	Result

### Part II

(Should contain the authenticated copy of the Standing Orders)

## TRADE UNION LEGISLATION

### Early Trade Unionism in India

The origin of trade unionism in India may be traced back to 1890 when workers of Bombay organised a union called the Bombay Millhands Association. The first recorded case of collective representation of their claims by the workers was made in 1884 by the labour leader Mr. M. N. Lokhanday who organised a conference of factory workers to draw up a memorandum to the Factory Commission appointed by the Government of Bombay. Since 1918 trade unions have been growing both in number and volume. The trade unions did not enjoy legal status and the workers' right to organise and strike for furtherance of their own interest was not recognised under the law.

The decision of the Madras High Court in 1921, following the common law in England which regarded trade unionism as illegal conspiracy, in the Buckingham and Carnatic Mills case granting an injunction restraining Madras Textile Labour Union officials from influencing labourers to break their contract with the employers by means of strike with a view to obtain increased wages, focussed public attention to the necessity of giving legal recognition to workers' right to organise and strike in defence of their legitimate interests.

### **Resolution of Indian Legislative Assembly in 1921**

On the 1st March, 1921, on the initiative of the late Sri N. M. Joshi, the Legislative Assembly adopted a resolution to take steps to introduce legislation for registration of trade unions and protection of *bonafide* trade union activities. The Government of India accepted the resolution in a slightly modified form and after consulting the State Governments drew up a Bill providing for the registration of trade unions and introduced the same in the Legislative Assembly on 31st August, 1925. The Indian Trade Unions Act was passed in 1926 (XVI of 1926) and came into force on 1st June, 1927.

### **Main Provisions of the Indian Trade Unions Act, 1926**

The main object of the Act is to give registered trade unions a legal and corporate status and their executives and members immunity from civil and criminal liability in respect of strikes. The Act defines the legal positions of trade unions and provides for their registration. An association of workers, if organised for legitimate trade union purposes, can apply to the Registrar appointed by the State Government for registration and obtain a Registration Certificate. The general funds of a trade union must be spent for certain specified objects intended to promote the interests of its members. A trade union can create a fund for civic and political interests of its members, but the contribution to it must be voluntary. Outsiders are allowed to be on an union's executive committee, but at least half of the total number of office-bearers of a registered union must be employed in the industry concerned. The minimum age for admission to membership is 15 and to executive office is 18. Every registered union has to maintain a list of members and has to send an annual statement of its income and expenditure, assets and liabilities in the prescribed form to the Registrar to whom the changes of office-bearers should also be intimated. Infringement of the provisions is punishable with a maximum fine of Rs. 500/- and the offence is triable by a Presidency Magistrate or a Magistrate of the first class.

### **Indian Trade Unions (Amendment) Act, 1928 (XV of 1928)**

With a view to clearly define the procedure regarding appeal against the decision of a Registrar refusing to register a trade union or withdrawing a Registration Certificate, the Act was amended in 1928.

### **Central Trade Union Regulations, 1939**

The Act as adapted by the Government of India (Adaptation of Indian Laws) Order, 1937 vested in the Central Government the powers of the State Governments in respect of trade unions whose activities are not confined to one State. The Central Government framed the Central Trade Union Regulations in 1939 and appointed the Central Registrar for regulating such unions.

### **Recognition of Unions by Employers**

Very few of the registered unions have been recognised by the employers. There is at present no obligation on the part of the employers to recognise registered trade unions. It was felt that with the existing conditions in India, there should be some legal obligation on the part of the employers to recognise truly representative trade unions. The Royal Commission on Labour in India deprecated obligatory recognition but pleaded for the recognition of unions by employers. The position regarding voluntary recognition has not improved as expected and the question of recognition is a recurring source of friction between the employers and workers.

**Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947)**

The Government of India after discussions with the State Governments, employers' and workers' representatives in the different sessions of the Indian Labour Conference and Standing Labour Committee, introduced the Indian Trade Unions (Amendment) Bill in the Central Legislature on the 14th February, 1946 to amend the Indian Trade Unions Act, 1926 providing for obligatory recognition of representative trade unions by employers by an order of the Labour Court. The Bill was referred to Select Committee which submitted report on the 28th February, 1947 making several suggestions. The Bill was passed on the 19th November, 1947 and received the assent of the Governor-General on the 20th December, 1947.

The Amending Act provides for compulsory recognition of trade unions satisfying certain prescribed conditions and penalising unfair practices by recognised trade unions as well as by employers. Two new chapters dealing with recognition of trade unions and unfair practices have been inserted in the existing Act.

The Amending Act provides that a registered union which has applied to an employer for recognition and has failed to obtain recognition within three months may apply to the Labour Court (to be set up) for recognition by the employer. If the Labour Court, after due investigation, is satisfied that the trade union concerned fulfils the conditions for recognition laid down in the Act and is fit to be recognised by the employer, it shall make an order directing such recognition. The Act confers on the executive of a registered trade union the right to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of work of all or any of its members. The Act defines certain practices as unfair on the part of a recognised union or an employer and provides for withdrawal of recognition on application to the Labour Court by the Registrar or the employer in the case of former and a fine upto Rs. 1,000/- in the case of the latter.

**Draft Indian Trade Unions Recognition Regulations, 1949**

Draft Regulations framed by the Central Government under the Amending Act of 1947 prescribing the procedure to be followed by the Labour Court in the matter of recognition of trade unions and applicable to trade unions consisting of workmen employed by the Central Government or by railway, major port, mine or oilfield, was published in the Gazette of India on the 29th January, 1949 for eliciting public opinion. The draft has not yet been finalised.

**Revision of the Indian Trade Unions Act, 1926**

The Central Government decided not to enforce the Amending Act of 1947 pending consideration of certain further amendments to the original Act. Amendment to the Indian Trade Unions Act, 1926, with a view to secure greater control over the working of the registered trade unions was one of the items on the agenda of the eleventh meeting of the Standing Labour Committee held in New Delhi in January, 1949.

The conference of Labour Ministers held at New Delhi in January, 1949 while discussing about the implementation of the Freedom of Association Convention No. 87 adopted by the International Labour Conference at San Francisco in 1948, considered further amendment to the Indian Trade Unions Act, 1926 and enforcement of the Indian Trade Unions (Amendment) Act, 1947. "Regarding inclusion of outsiders in the management of unions, it was recommended that the present provision in the Act which restricts outsiders to one-half of the total



number of officers of a registered trade union should be amended to one-fourth or four whichever is less.”<sup>1</sup>

### **Trade Unions Bill, 1950 (Bill No. 14 of 1950)<sup>2</sup>**

On the basis of the above discussions, the Trade Unions Bill was introduced in the Parliament on the 23rd February, 1950 providing for registration and recognition of trade unions and defining the law relating to registered and recognised trade unions and certain unfair practices.

The Bill was of a comprehensive and consolidating nature. The following were the main features of the Bill:—(1) the armed forces and police were excluded from its scope; (2) trade unions of civil servants were not permitted to have outsiders on their executive committee; (3) other trade unions should not have more than four outsiders or one-fourth of the total number of executive, whichever was less; (4) the conditions entitling a trade union to registration were enlarged; (5) registered trade unions were to be inspected by officers appointed for the purpose;

<sup>1</sup> Bombay Labour Gazette, February, 1949, Vol. XXVIII, p. 608.

<sup>2</sup> Statement of Objects and Reasons of the Trade Unions Bill, 1950—The Trade Unions Bill is primarily a consolidating measure, but there are a few new provisions. In the interests of discipline, the armed forces and the police have been excluded from its scope.

2. The conditions which entitle a trade union to registration have been enlarged. The rules of a trade union should hereafter mention the rate of subscription payable by members, the circumstances, including default in payment of subscription, in which the name of a member shall be struck off the list of members, the procedure for taking disciplinary action against members who go on a strike or lock-out without the sanction of the executive or who violate the rules of the trade union, and the procedure for taking disciplinary action against the members of the executive and other officers for violation of the provisions of the Act or of the rules of the trade union. It is also proposed to lay down that the rules of a trade union which is composed wholly or partly of civil servants should prohibit all its members from participating in any form of political activity and provide for the expulsion of offending members. The registration of a trade union is liable to be cancelled if it has wilfully, and after notice from the Registrar, contravened any provisions of the Act or of its own rules or failed to comply with a binding award, order or agreement.

3. Government employees, whether civil servants or not, will be debarred from contributing to political funds though there will be no such ban on members who are not Government employees.

4. It is proposed to debar outsiders from becoming officers of the executive of a trade union which consists wholly or partly of civil servants. In other trade unions their proportion has been reduced to four or one-fourth of the total number of the executive, whichever is less. Where a trade union commits an unfair practice as defined in the Bill, office-bearers who are outsiders will be liable to be debarred from holding any office in any trade union for a period of three years.

5. Civil servants hold a key position in the administration of any country and particularly of a country which has started on its career of independence amidst such economic and other difficulties as we find in India to-day. While their very position entitles them to every safeguard necessary for their well-being and progress, they should not be exposed to the temptation of resorting to methods which are available to industrial labour in every country. With this object in view, the Bill provides that a trade union of civil servants will not be entitled to compulsory recognition by appropriate Government if it does not consist wholly of civil servants or if it is affiliated to a federation, to which trade union of persons other than civil servants are also affiliated. Similarly, a trade union of employees of hospitals or educational institutions will not be entitled to compulsory recognition by order of a Labour Court if it does not consist wholly of employees of hospitals or educational institutions as the case may be. The same restriction to the association with other categories of employees applies to supervisors and the watch and ward staff. Where there are two or more trade unions qualified for recognition, only the larger one will be entitled to such recognition.

6. Provision has also been made for the settlement of disputes relating to the election of members of the executive or other officers of a trade union by the Labour Courts. (Gazette of India, Part V, dated the 4th March, 1950).

(6) where there were two or more trade unions qualified for registration, only the larger one would be entitled to recognition; (7) registered trade union should maintain lists of members, subscription registers, account books, etc. in the prescribed form; (8) Labour Courts would settle disputes relating to election of office bearers; (9) registration of trade union was liable to be cancelled if it wrongfully contravened any provision of the Act or of its own rules or failed to comply with a binding award, order or agreement.

The Bill was discussed in the tenth session of the Indian Labour Conference held at Delhi in March, 1950. The Bill was referred to the Select Committee whose report was presented to the Parliament on the 1st December, 1950. The Bill, however, lapsed with the desolution of the Parliament.

### Proposal for New Legislation

As the Trade Unions Bill and Labour Relations Bill lapsed, the Government of India thought it advisable to consult all interested parties with a view to arrive at a greater degree of agreement on all important and controversial issues. The Ministry of Labour issued a detailed Questionnaire on Industrial Relations covering all aspects of both the Industrial Disputes and Trade Unions Acts. The Questionnaire was the principal subject matter of discussion at the twelfth session of the Indian Labour Conference held at Naini Tal in October, 1952.

### Planning Commission on Trade Unions

The First Five Year Plan recognised the importance of a strong and healthy trade union movement and the worker's right to association, organisation and collective bargaining.

The Second Five Year Plan recommended building up strong trade unions with a view to safeguard the interests of labour and recognition of representative unions under certain conditions. The Commission suggested that the unions should depend more on their own organised strength than on outsiders and should improve the finance from their internal sources.

## INDIAN TRADE UNIONS ACT, 1926 (XVI OF 1926)

### Statement of Objects and Reasons<sup>1</sup>

This Bill has been prescribed in response to the following Resolution which was adopted by the Legislative Assembly on 1st March, 1924:

"This Assembly recommends to the Governor-General in Council that he should take steps to introduce, as soon as practicable, in the Indian Legislature, such legislation as may be necessary for the registration of Trade Unions".

The question was examined in detail by the Government of India and Local Governments were consulted and public opinion was invited. In the light of opinions received a draft Bill was prepared and published in September, 1924. The Government of India, after considering the criticisms received on that Bill, see no ground for modifying the general principles underlying the Bill, and except for minor alterations, the present Bill is a reproduction of the Bill previously published.

The general scheme of the Bill is that a Trade Union making the necessary application will, on compliance with certain stated conditions designed to ensure that the Union is a *bonafide* Trade Union, and that adequate safeguards are provided for the rights of its members, be entitled to registration. The Union and its members will thereupon receive protection in certain cases in respect of both civil and criminal liability. No restriction is placed upon the objects which a registered Trade Union may pursue, but the expenditure of its funds must be limited to specified Trade Union purposes. The legal position of Trade Unions which do not register will be unaffected by the Bill.

<sup>1</sup> Gazette of India, 1925, Part V, p. 8.

# INDIAN TRADE UNIONS ACT, 1926

## Arrangement of Sections

### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

### CHAPTER II—REGISTRATION OF TRADE UNIONS

3. Appointment of Registrars.
4. Mode of registration.
5. Application for registration.
6. Provisions to be contained in the rules of a Trade Union.
7. Power to call for further particulars and to require alteration of name.
8. Registration.
9. Certificate of registration.
10. Cancellation of registration.
11. Appeal.
12. Registered office.
13. Incorporation of registered Trade Unions.
14. Certain Acts not to apply to registered Trade Unions.

### CHAPTER III—RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS

15. Objects on which general funds may be spent.
16. Constitution of a separate fund for political purposes.
17. Criminal conspiracy in trade disputes.
18. Immunity from civil suit in certain cases.
19. Enforceability of agreements.
20. Rights to inspect books of Trade Union.
21. Rights of minors to membership of Trade Unions.
22. Proportion of officers to be connected with the industry.
23. Change of name.
24. Amalgamation of Trade Unions.
25. Notice of change of name or amalgamation.
26. Effects of change of name and of amalgamation.
27. Dissolution.
28. Returns.

### CHAPTER IV—REGULATIONS

29. Power to make regulations.
30. Publication of regulations.

### CHAPTER V—PENALTIES AND PROCEDURE

31. Failure to submit returns.
32. Supplying false information regarding Trade Unions.
33. Cognizance of offences.

## INDIAN TRADE UNIONS ACT, 1926 (XVI OF 1926)<sup>1</sup>

*An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in <sup>2</sup>[the <sup>2a</sup>[States] of India].*  
[25th March, 1926]

Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in <sup>2</sup>[the <sup>2a</sup>[States] of India]; it is hereby enacted as follows:—

### CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Indian Trade Unions Act, 1926.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 8; see also page 1327 ante and for Report of Select Committee, see *ibid.*, p. 197.

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>2a</sup> Subs. by the A. O. 1950 for "Provinces."

<sup>3</sup>[(2) It extends to the whole of India <sup>4</sup>[except the State of Jammu and Kashmir].

(3) It shall come into force on such <sup>5</sup>date as the <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[official Gazette], appoint.

**2. Definitions.**—In this Act <sup>8</sup>["the appropriate Government" means in relation to Trade Unions whose objects are not confined to one <sup>9</sup>[State], the Central Government, and in relation to other Trade Unions, the <sup>10</sup>[State] Government, and], unless there is anything repugnant in the subject or context,—

(a) "executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(b) "officer" in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor;

(c) "prescribed" means prescribed by regulations made under this Act;

(d) "registered office" means that office of a Trade Union which is registered under this Act as the head office thereof;

(e) "registered Trade Union" means a Trade Union registered under this Act;

(f) "Registrar" means a Registrar of Trade Unions appointed by the <sup>11</sup>[appropriate Government] under section 3, and "the Registrar", in relation to any Trade Union, means the Registrar appointed for the <sup>12</sup>[State] in which the head or registered office, as the case may be, of the Trade Union is situated;

(g) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and

(h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that this Act shall not affect—

(i) any agreement between partners as to their own business;

(ii) any agreement between an employer and those employed by him as to such employment; or

(iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

## CHAPTER II—REGISTRATION OF TRADE UNIONS

**3. Appointment of Registrars.**—<sup>13</sup>[The appropriate Government] shall appoint a person to be the Registrar of Trade Unions for <sup>14</sup>[each] <sup>12</sup>[State].

<sup>3</sup> Subs. by the A.O. 1950 for the former sub-section (2).

<sup>4</sup> Subs. by Act 3 of 1951 for "except Part B States".

<sup>5</sup> 1st June, 1927. See Gazette of India, 1927, Part I, p. 467.

<sup>6</sup> Subs. by the A.O. 1937 for "Governor-General in Council".

<sup>7</sup> Subs., *ibid.*, for "Gazette of India".

<sup>8</sup> Ins., *ibid.*

<sup>9</sup> Subs. by the A.O. 1950 for "Province".

<sup>10</sup> Subs., *ibid.*, for "Provincial".

<sup>11</sup> Subs. by the A.O. 1937 for "Local Government".

<sup>12</sup> Subs. by the A. O. 1950 for "Province".

<sup>13</sup> Subs. by the A.O. 1937 for "Each Local Government".

<sup>14</sup> Subs. *ibid.*, for "the Province".

**4. Mode of registration.**—Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

**5. Application for registration.**—(1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely:—

(a) the names, occupations and addresses of the members making the application;

(b) the name of the Trade Union and the address of its head office; and

(c) the titles, names, ages, addresses and occupations of the officers of the Trade Union.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

**6. Provisions to be contained in the rules of a Trade Union.**—A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:—

(a) the name of the Trade Union;

(b) the whole of the objects for which the Trade Union has been established;

(c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union;

(e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as officers required under section 22 to form the executive of the Trade Union;

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(g) the manner in which the rules shall be amended, varied or rescinded;

(h) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed;

(i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union; and

(j) the manner in which the Trade Union may be dissolved.

**7. Power to call for further particulars and to require alteration of name—**

(1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(2) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

**8. Registration.**—The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act, in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

**9. Certificate of registration.**—The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

**10. Cancellation of registration.**—A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

(a) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

<sup>15</sup>[**11. Appeal.**—(1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

(a) where the head office of the Trade Union is situated within the limits of a Presidency-town <sup>16</sup>\*, to the High Court, or

(b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the <sup>17</sup>[appropriate Government] may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (V of 1908), and may direct by whom the whole or any part of the costs of

<sup>15</sup> Subs. by Act 15 of 1928, s. 2.

<sup>16</sup> The words "or of Rangoon" rep. by the A.O. 1937.

<sup>17</sup> Subs., *ibid.*, for "Local Government."

the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.]

**12. Registered Office.**—All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

**13. Incorporation of registered Trade Unions.**—Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

**14. Certain Acts not to apply to registered Trade Unions.**—The following Acts, namely—

(a) The Societies Registration Act, 1860 (XXI of 1860),

(b) The Co-operative Societies Act, 1912 (II of 1912),

18\* \* \* \* \*, and

(e) The Indian Companies Act, 1913 (VII of 1913)<sup>18a</sup>, shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

### CHAPTER III—RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS

**15. Objects on which general funds may be spent.**—The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely:—

(a) the payment of salaries, allowances and expenses to officers of the Trade Union;

(b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union;

(c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

(d) the conduct of trade disputes on behalf of the Trade Union or any member thereof;

(e) the compensation of members for loss arising out of trade disputes;

(f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;

(g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;

<sup>18</sup> Clauses (c) and (d) were omitted by Act 25 of 1942, s. 2, and Schedule I.

<sup>18a</sup> See now the Companies Act, 1956 (1 of 1956).

(h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;

(i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;

(j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and

(k) subject to any conditions contained in the notification, any other object notified by the <sup>19</sup>[appropriate Government] in the <sup>20</sup>[official Gazette].

**16. Constitution of a separate fund for political purposes.**—(1) A registered Trade Union may constitute a separate fund, from contribution separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are:—

(a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of India Act, <sup>21</sup>[or the Government of India Act, 1935,] (26 Geo. 5, c. 2), <sup>22</sup>[or the Constitution] or of any local authority, before, during or after the election in connection with his candidature or election; or

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(c) the maintenance of any person who is a member of any legislative body constituted under the Government of India Act, <sup>21</sup>[or the Government of India Act, 1935,] (26 Geo. 5, c. 2), <sup>22</sup>[or the Constitution] or of any local authority; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under the Government of India Act, <sup>21</sup>[or the Government of India Act, 1935,] (26 Geo. 5, c. 2), <sup>22</sup>[or the Constitution] or for any local authority; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to said fund shall not be made a condition for admission to the Trade Union.

<sup>19</sup> Subs. by the A.O. 1937 for "Governor-General in Council".

<sup>20</sup> Subs., *ibid.*, for "Gazette of India".

<sup>21</sup> Ins., *ibid.*

<sup>22</sup> Ins. by the A.O. 1950.



**17. Criminal conspiracy in trade disputes.**—No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code (XLV of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

**18. Immunity from civil suit in certain cases.**—(1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

**19. Enforceability of agreements.**—Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employed or be employed.

**20. Right to inspect books of Trade Union.**—The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

**21. Rights of minors to membership of Trade Unions.**—Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union.

**22. Proportion of officers to be connected with the industry.**—Not less than one-half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the <sup>23</sup>[appropriate Government] may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

**23. Change of name.**—Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

<sup>23</sup> Subs. by the A.O. 1937 for 'Local Government'.

**24. Amalgamation of Trade Unions.**—Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them; provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

**25. Notice of change of name or amalgamation.**—(1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different <sup>24</sup>[State], to the Registrar of such <sup>24</sup>[State].

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8 and the change of name shall have effect from the date of such registration.

(4) The Registrar of the <sup>24</sup>[State] in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

**26. Effects of change of name and of amalgamation.**—(1) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

**27. Dissolution.**—(1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

**28. Returns.**—(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of March next preceding such prescribed date,

<sup>24</sup> Subs. by the A.O. 1950 for "Province".

and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

#### CHAPTER IV—REGULATIONS

**29. Power to make regulations.**—(1) <sup>25\*</sup> \* \* \*, the <sup>26</sup>[appropriate Government] may make regulations for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;

(b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one <sup>27</sup>[State] to another;

(c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited;

(d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections; and

(e) any matter which is to be or may be prescribed.

**30. Publication of regulations.**—(1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the <sup>28</sup>[official Gazette] and on such publication shall have effect as if enacted in this Act.

#### CHAPTER V—PENALTIES AND PROCEDURE

**31. Failure to submit returns.**—(1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union,

<sup>25</sup> The words "Subject to the control of the "G. G. in C." omitted by the A.O. 1937.

<sup>26</sup> Subs., *ibid.*, for "Local Government".

<sup>27</sup> Subs. by the A.O. 1950 for "Province".

<sup>28</sup> Subs. by the A.O. 1937 for "Local Official Gazette".

shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues:

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

**32. Supplying false information regarding Trade Unions.**—Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

**33. Cognizance of offences.**—(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

## INDIAN TRADE UNIONS (AMENDMENT) ACT, 1947 (XLV OF 1947)

### Statement of Objects and Reasons<sup>1</sup>

It has long been felt that with existing conditions in India, there should be some obligation on the part of employers to recognise Trade Unions provided they are truly representative. The Trade Unions Act, 1926, provides for registration of the Unions, but there is no obligation on the employers to recognise any registered trade unions. The Royal Commission on Labour pleading for recognition in the spirit as well as in the letter, deprecated obligatory recognition feeling that it would not secure genuine and full recognition which the Commission desired to seek. The position has not, however, improved in regard to voluntary recognition by employers. The Bill, therefore, provides for obligatory recognition of representative trade unions. The question as to whether a trade union is representative or not will, in the event of dispute, be considered by an industrial court to be set up for the purpose.

The Bill specifies certain acts as unfair practices on the part of recognised trade unions and certain other acts as unfair practices on the part of the employers. Provision has been made enabling withdrawal of recognition where an unfair practice is committed by the executive or members of a recognised trade union or when the trade union has ceased to be a representative trade union or on the failure of the trade union to submit any return prescribed in the Bill. An unfair practice on the part of an employer has been made an offence punishable with fine.

## INDIAN TRADE UNIONS (AMENDMENT) ACT, 1947 (XLV OF 1947)

### Arrangement of Sections

1. Short title and commencement.
2. Amendment of long title and preamble, Act XVI of 1926.
3. Amendment of Section 2, Act XVI of 1926.

<sup>1</sup> Gazette of India, Part V, dated the 23rd February, 1946.

4. Insertion of new Chapters IIIA and IIIB in Act XVI of 1926.
5. Amendment of Section 29, Act XVI of 1926.
6. Amendment of Section 31, Act XVI of 1926.
7. Insertion of new Section 32A in Act XVI of 1926.

## INDIAN TRADE UNIONS (AMENDMENT) ACT, 1947 (XLV OF 1947)<sup>1</sup>

*An Act further to amend the Indian Trade Unions Act, 1926.*

[20th December, 1947]

Whereas it is expedient further to amend the Indian Trade Unions Act, 1926 (XVI of 1926), for the purposes hereinafter appearing:

It is hereby enacted as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Indian Trade Unions (Amendment) Act, 1947.

(2) It shall come into force on such date<sup>2</sup> as the Central Government may, by notification in the official Gazette, appoint.

**2. Amendment of long title and preamble, Act XVI of 1926.**—In the long title and preamble of the Indian Trade Unions Act, 1926 (hereinafter referred to as the said Act),—

(a) after the word “registration” the words “and recognition” shall be inserted;

(b) for the words “registered Trade Unions in British India” the words “registered and recognised Trade Unions and to certain unfair practices in industrial or trade employment” shall be substituted.

**3. Amendment of section 2, Act XVI of 1926.**—In section 2 of the said Act,

(a) clauses (b) to (h) shall be relettered as clauses (f), (g), (i), (j), (k), (m) and (n), respectively;

(b) for the opening paragraph and clause (a), the following shall be substituted, namely:—

“In this Act, unless there is anything repugnant in the subject or context,—

(a) ‘appropriate Government’ means, in relation to Trade Unions whose objects are not confined to one Province, the Central Government, and in relation to other Trade Unions, but subject to the provisions of section 28A, the Provincial Government;

(b) ‘employer’ means—

(i) in relation to an industry carried on by or under the authority of any department of the Central Government or a Provincial Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department,

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority, and includes an association of employers;

(c) ‘executive’ means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India dated 23.2.1946, Part V; see also page 1337 ante; for Report of the Select Committee, see *ibid.*, 1947, Part V, pp. 319-329.

<sup>2</sup> Not yet brought into force.

(d) 'industry' means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen;

(e) 'Labour Court' means, in relation to a Trade Union, a Labour Court appointed by the appropriate Government under sub-section (1) of section 28B;"

(c) after clause (g) as relettered by this section, the following clause shall be inserted, namely:—

"(h) 'recognized Trade Union' means a Trade Union recognised under this Act;"

(d) after clause (k) as relettered by this section, the following clause shall be inserted, namely:—

"(l) 'strike' has the meaning assigned to it in the Industrial Disputes Act, 1947 (XIV of 1947) 'illegal strike' means a strike which by virtue of any law for the time being in force is illegal, and 'irregular strike' means an illegal strike or a strike declared by a Trade Union in contravention of its rules referred to in clause (d) of section 28D;"

4. **Insertion of new Chapters IIIA and IIIB in Act XVI of 1926.**—After Chapter III of the said Act the following Chapters shall be inserted, namely:—

"CHAPTER IIIA—RECOGNITION OF TRADE UNIONS

**28A. Modification of the definition of "appropriate Government" for certain purposes.**—Notwithstanding anything to the contrary in the definition of "the appropriate Government" in section 2, the Central Government shall be deemed to be the appropriate Government for the purposes of this Chapter in respect of Trade Unions consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield.

*Explanation.*—In this section and for the purposes of this Chapter, a Trade Union of which not less than fifty per cent. of the members are workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield shall be deemed to be a Trade Union consisting of workmen employed by the Central Government or by a Federal Railway or in a major port, mine or oilfield as the case may be.

**28B. Appointment, constitution, powers and procedure of Labour Courts.**—

(1) For the purposes of this Chapter, the appropriate Government shall appoint such number of Labour Courts as it considers necessary, consisting of one or more persons each of whom—

(a) is, or has been, a Judge of a High Court or a District Judge, or

(b) is qualified for appointment as a Judge of a High Court;

Provided that the appointment to a Labour Court of any person not qualified under clause (a) shall be made in consultation with the High Court of the Province in which the Labour Court has, or is intended to have, its usual place of sitting.

(2) Every Labour Court shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

(3) The proceedings of Labour Courts shall be regulated and conducted in such manner as may be prescribed.

**28C. Recognition by agreement.**—(1) Where an employer agrees to recognize a Trade Union, a memorandum of agreement signed by the employer and the

officers of the Trade Union, or their authorised representatives, may be presented to the Registrar who shall record the memorandum in a register in the prescribed manner.

(2) Such an agreement may be revoked by either party thereto on application made to the Registrar in the prescribed manner.

(3) While such an agreement is in force, the Trade Union shall, in its relations with the employer with whom the agreement is made, have all the rights of a recognized Trade Union under this Act, and shall for all other purposes be deemed to be a recognized Trade Union.

**28D. Conditions for recognition by order of a Labour Court.**—A Trade Union shall not be entitled to recognition by order of a Labour Court under section 28E unless it fulfils the following conditions, namely:—

(a) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with one another;

(b) that it is representative of all the workmen employed by the employer in that industry or those industries;

(c) that its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause (b);

(d) that its rules provide for the procedure for declaring a strike;

(e) that its rules provide that a meeting of its executive shall be held at least once in every six months;

(f) that it is a registered Trade Union, and that it has complied with all the provisions of this Act:

Provided that the reference in clause (b) to “the employer” shall as respects recognition by an association of employers, be construed as a reference to all the employers who are members of the association.

**28E. Application to, and grant of recognition by, Labour Courts.**—

(1) Where a registered Trade Union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing, setting out such particulars as may be prescribed, to the Labour Court for recognition by that employer.

(2) A single application may be made under sub-section (1) for recognition—  
(a) by more than one employer, or (b) by an association of employers as well as one or more members thereof.

(3) The Labour Court may call for further information for the purpose of ascertaining whether the Trade Union is entitled to recognition by the employer under this section, and if the Trade Union fails to supply the required information within the time granted, the Labour Court may dismiss the application.

(4) The Labour Court shall, after serving notice in the prescribed manner on the employer, investigate whether the Trade Union fulfils the condition for recognition set out in section 28D, and in deciding whether the condition set out in clause (b), thereof is fulfilled, the Labour Court shall have regard to, but shall not be bound by, the fact whether the proportion which the number of the workmen referred to in the said clause who are members of the Trade Union and are not in arrears of their subscription for any period exceeding three months, bears to the total number of such workmen is less, or not less, than such percentage, if any, as may be prescribed in this behalf, either generally, or in respect of any particular locality or any particular employer or class of employers, or any particular industry or class of industries.

(5) If the Labour Court is satisfied that the Trade Union is fit to be recognized by the employer, it shall make an order directing such recognition and may, where

the recognition is to be by an association of employers, further direct, by the same or a subsequent order, recognition by every member of the association in relation to whom the Trade Union fulfils the condition set out in clause (b) of section 28D.

(6) Every order made under sub-section (5) shall be forwarded to the appropriate Government which shall notify it in the official Gazette, and while a recognition directed by such order is in force the Trade Union shall, in its relations with the employer concerned, have all the rights of a recognized Trade Union under this Act and shall for all other purposes be deemed to be a recognized Trade Union.

**28F. Rights of recognised Trade Unions.**—(1) The executive of a recognised Trade Union shall be entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(2) Nothing in sub-section (1) shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding matters on which, as a result of previous discussion with the executive of the Trade Union, the employer has arrived at a conclusion, whether in agreement with the executive or not, unless a period of at least three months has elapsed since the said conclusion was intimated to the executive, or unless there has been a change in circumstances.

(3) Any dispute between the employer and the executive of a recognized Trade Union as to whether a conclusion has been arrived at, or whether there has been a change in circumstances, within the meaning of sub-section (2), shall be referred to the Registrar whose decision shall be final.

(4) The executive of a recognized Trade Union shall be entitled to display notices of the Trade Union in any premises where its members are employed, and the employer shall afford the executive reasonable facilities for that purpose.

**28G. Withdrawal of recognition.**—(1) Where the recognition of a Trade Union has been directed under section 28E, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of the recognition on any of the following grounds, namely:—

(a) that the executive or the members of the Trade Union have committed any unfair practice set out in section 28J within three months prior to the date of the application;

(b) that the Trade Union has failed to submit any return referred to in section 28I;

(c) that the Trade Union has ceased to be representative of the workmen referred to in clause (b) of section 28D.

(2) On receipt of an application under sub-section (1) the Labour Court shall, unless it thinks fit to dismiss the application summarily, serve notice in the prescribed manner on the Trade Union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to the Trade Union to show cause the Labour Court is satisfied that the Trade Union is no longer fit to be recognized, it shall make an order declaring that the recognition of the Trade Union has been withdrawn, and forward a copy of the order to the appropriate Government which shall notify it in the official Gazette.

**28H. Application for fresh recognition.**—On the expiry of not less than six months from the date of withdrawal of recognition of a Trade Union under sub-section (3) of section 28G, the Trade Union, if it continues to be a registered



Trade Union, may again apply for recognition, and the procedure laid down in this Act shall apply in respect of such application as if it were an original application for recognition.

**28I. Recognised Trade Unions to submit prescribed returns.**—Every Trade Union recognized under section 28E shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 28, as may be prescribed.

#### CHAPTER IIIB—UNFAIR PRACTICES

**28J. Unfair practices by recognised Trade Unions.**—The following shall be deemed to be unfair practices on the part of a recognized Trade Union, namely:—

(a) for a majority of the members of the Trade Union to take part in an irregular strike;

(b) for the executive of the Trade Union to advise or actively to support or to instigate an irregular strike;

(c) for an officer of the Trade Union to submit any return required by or under this Act containing false statements.

**28K. Unfair practices by employers.**—The following shall be deemed to be unfair practices on the part of an employer, namely:—

(a) to interfere with, restrain, or coerce his workmen in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid or protection;

(b) to interfere with the formation or administration of any Trade Union or to contribute financial or other support to it;

(c) to discharge, or otherwise discriminate against, any officer of a recognized Trade Union because of his being such officer;

(d) to discharge or otherwise discriminate against any workman because he has made allegations or given evidence in an inquiry or proceeding relating to any matter such as is referred to in sub-section (1) of section 28F;

(e) to fail to comply with the provisions of section 28F:

Provided that the refusal of an employer to permit his workmen to engage in Trade Union activities during their hours of work shall not be deemed to be an unfair practice on his part."

**5. Amendment of section 29, Act XVI of 1946.**—(1) To sub-section (1) of section 29 of the said Act the following proviso shall be added, namely:—

"Provided that the making of regulations under this section for the purpose of carrying into effect the provisions of Chapter IIIA shall be deemed to be a purpose of that Chapter within the meaning of section 28A."

(2) To the said section 29 the following sub-section shall be added, namely:—

"(3) The Central Government may give directions to a Provincial Government as to the regulations to be made under this section for prescribing the percentages referred to in sub-section (4) of section 28E."

**6. Amendment of section 31, Act XVI of 1926.**—In section 31 of the said Act,—

(a) in sub-section (1),—

(i) after the word "registered" the words "or recognized" shall be inserted;

(ii) for the word "statement" the words "statement, return" shall be substituted,

(b) in sub-clause (2), after the words "that section" the words and figures "or in or from any return referred to in section 28I" shall be inserted.

7. **Insertion of new section 32A in Act XVI of 1926.**—After section 32 of the said Act the following section shall be inserted, namely:—

"32A. **Penalty for unfair practices.**—(1) Any employer who commits any unfair practice set out in section 28K shall be punishable with fine which may extend to one thousand rupees.

(2) Where a Criminal Court imposes a fine, or confirms in appeal, revision or otherwise a sentence of fine imposed, on an employer for committing an unfair practice set out in clause (c) or clause (d) of section 28K, it may, when passing judgment, order the whole or any part of the fine to be applied in the payment to any person of compensation for loss or injury caused by the unfair practice."

## CENTRAL TRADE UNION REGULATIONS, 1938

### Arrangement of Paragraphs

1. Title and application.
  2. Definitions.
  3. Application for registration.
  4. Register of Trade Unions.
  5. Certificates of registration.
  6. Cancellation of registration.
  7. Unions registered with State Registrars.
  8. Fees.
  9. Amendment of rules.
  10. Appeals.
  11. Funds of a dissolved Trade Union.
  12. Return.
  13. Auditors.
  14. Exception.
  15. Audit.
  16. Audit of political funds.
  17. Inspection.
- FORMS.

## CENTRAL TRADE UNION REGULATIONS, 1938<sup>1</sup>

In exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (XVI of 1926), and by the said section of the said Act as in force in Berar, the Central Government is pleased, in relation to Trade Unions whose objects are not confined to one <sup>2</sup>[State], to make the following regulations, the same having been previously published as required by sub-section (1) of section 30 of the said Act, namely:—

1. **Title and application.**—(1) These regulations may be called the Central Trade Union Regulations, 1938.

(2) The regulations apply to trade unions whose objects are not confined to one <sup>2</sup>[State].

2. **Definitions.**—In these regulations—

(a) "the Act" means the Indian Trade Unions Act, 1926.

(b) "Form" means a form appended to these regulations.

(c) "Section" means a section of the Act.

3. **Application for registration.**—Every application for registration of a Trade Union shall be made in Form A.

<sup>1</sup> These Regulations were published under the Department of Labour Notification No. L—1785, dated the 16th June, 1938.

<sup>2</sup> Subs. by the A. O. 1950 for "Province".

**4. Register of Trade Unions.**—The Register of Trade Unions referred to in section 8 shall be maintained in Form B.

**5. Certificates of registration.**—(1) The certificate of registration issued by the Registrar under section 9 shall be in Form C.

(2) When the Registrar registers a change of name under section 25, sub-section (3), he shall certify under his signature at the foot of the certificate on its presentation to him by the Secretary that the new name has been registered.

**6. Cancellation of registration.**—The Registrar on receiving an application for the cancellation of registration shall, before granting the application, satisfy himself that the withdrawal or cancellation of registration was approved by a general meeting of the Trade Union, or if it was not so approved, that it has the approval of the majority of the members of the Trade Union. For this purpose, he may call for such further particulars as he may deem necessary and may examine any officer of the Union.

**7. Unions registered with <sup>3</sup>[State] Registrars.**—If the application is made by a Trade Union which has previously been registered by the Registrar of any <sup>2</sup>[State] the union shall submit with its application a copy of the certificate of registration granted to it and copies of the entries relating to it in the Register of Trade Unions for the <sup>2</sup>[State].

**8. Fees.**—The fee payable for the registration of a Trade Union shall be Rs. 5.

**9. Amendment of rules.**—(1) On receiving a copy of an alteration made in the rules of a Trade Union under section 28 (3), the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by the rules of the Trade Union, shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the Secretary of the Trade Union.

(2) The fee payable for registration of alteration of rules shall be Re. 1 for each set of alterations made simultaneously.

**10. Appeals.**—Any appeal made under section 11 (1) of the Act must be filed within sixty days of the date on which the Registrar passed the order against which the appeal is made.

**11. Funds of a dissolved Trade Union.**—Where it is necessary for the Registrar, under section 27 (2) to distribute the funds of a Trade Union which has been dissolved, he shall divide the funds in proportion to the amounts contributed by the members by way of subscription during their membership.

**12. Return.**—The annual return to be furnished under section 28 shall be submitted to the Registrar by the 31st day of July in each year and shall be in Form D.

**13. Auditors.**—(1) Save as provided in sub-clauses (2), (3), (4) and (5) of this regulation, the annual audit of the accounts of any registered Trade Union shall be conducted by an auditor authorized to audit the accounts of companies under section 144 (1) of the Indian Companies Act, 1913<sup>4</sup> or under section 3 (2) of the Indian Companies (Amendment) Act, 1930.

(2) Where the membership of a Trade Union did not at any time during the financial year exceed 2,500 the annual audit of the accounts may be conducted—

- (a) by any examiner of local fund accounts, or
- (b) by any local fund auditor appointed by the <sup>3</sup>[State] Government, or
- (c) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension of not less than Rs. 200 per mensem.

(3) Where the membership of a Trade Union did not at any time during the financial year exceed 750, the annual audit of the accounts may be conducted—

- (a) by any two persons holding office as magistrates or judges or as members of any municipal council, district board, or legislative body, or
- (b) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension from Government of not less than Rs. 75 a month, or
- (c) by any auditor appointed to conduct the audit of any co-operative societies by Government or by the Registrar of Co-operative Societies or by any <sup>3</sup>[State] Co-operative organization recognized by Government for this purpose.

(4) Where the membership of a Trade Union did not at any time during the financial year exceed 250, the annual audit of the accounts may be conducted by any two members of the Union.

<sup>3</sup> Subs. for "Provincial", *ibid.*

<sup>4</sup> See now section 276 of the Companies Act, 1956 (1 of 1956).

(5) Where the Trade Union is a federation of unions, and the number of unions affiliated to it at any time during the financial year did not exceed 50, 15 or 5, respectively, the audit of the accounts of the federation may be conducted as if it had not at any time during the year had a membership of more than 2500, 750 or 250, respectively.

14. **Exception.**—Notwithstanding anything contained in regulation 13, no person, who, at any time during the year, was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union.

15. **Audit.**—The auditor or auditors appointed in accordance with the regulations shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers relating thereto and shall thereafter sign the auditor's declaration appended to Form D, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act. The particulars given in this statement shall indicate:—

- (a) every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the Act,
- (b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person,
- (c) the amount of any sum which ought to have been but is not brought to account by any person.

16. **Audit of political funds.**—The audit of the political fund of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditor or auditors.

17. **Inspection.**—(1) The register of Trade Unions maintained in accordance with regulation 4 shall be open to inspection by any person on payment of a fee of annas eight.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of annas eight for each document inspected.

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a certified copy of any such document to a registered Trade Union or a member thereof on payment of annas twelve for the first two hundred words (or less) and annas six for every additional hundred words or fractional part thereof.

#### FORM A—APPLICATION FOR REGISTRATION OF TRADE UNION

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

1. We hereby apply for the registration of a trade union under the name of \_\_\_\_\_
2. The address of the head office of the Union is \_\_\_\_\_
3. The union came into existence on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_
4. The union is a union of employers/workers engaged in the industry (or profession).
5. The particulars required by section 5(1)(c) of the Indian Trade Unions Act, 1926, are given in Schedule I.
6. The particulars given in Schedule II show the provision made in the rules for the matters detailed in section 6 of the Indian Trade Unions Act, 1926.
7. (To be struck out in the case of unions which have not been in existence for one year before the date of application). The particulars required by section 5 (2) of the Indian Trade Unions Act, 1926, are given in Schedule \*III.
8. We have been duly authorized to make this application.

Signature	Occupation	Address
Signed 1		
2		
3		
4		
5		
6		
7		

To the Registrar of Central Trade Unions, Delhi.

\* State here whether the authority was given by a resolution of a general meeting of the Union, if not in what other way it was given.

## SCHEDULE I—LIST OF OFFICERS

Title	Name	Age	Address	Occupation

*Note*—Enter in this Schedule the names of all members of the executive of the Union, showing in column 1 the names of any posts held by them (e.g. President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

## SCHEDULE II—REFERENCE TO RULES

The numbers of the rules making provision for the several matters detailed in column 1 are given in column 2 below:—

Matter	Number of rules
Name of union. The whole of the objects for which the union has been established. The whole of the purposes for which the general funds of the union shall be applicable. The maintenance of a list of members. The facilities provided for the inspection of the list of members by officers and members. The admission of ordinary members. The admission of honorary or temporary members. The conditions under which members are entitled to benefits assured by the rules. The conditions under which fines or forfeitures can be imposed or varied. The manner in which the rule shall be amended, varied or rescinded. The manner in which the members of the executive and the other officers of the union shall be appointed and removed. The safe custody of the funds. The annual audit of the accounts. The facilities for the inspection of the account books by officers and members. The manner in which the union may be dissolved.	

## SCHEDULE III—STATEMENT OF LIABILITIES AND ASSETS ON THE DAY OF 19 .

(This need not be filled in if the Union came into existence less than one year before the date of application for registration.)

Liabilities	Rs. a. p.	Assets	Rs. a. p.
Amount of general fund ...		Cash—	
Amount of political fund ...		In hands of Treasurer ...	
Loans from ...		In hands of Secretary ...	
Other liabilities (to be specified) ...		In hands of... Bank ...	
		In the Bank ...	
		Securities as per list below ...	
		Unpaid subscriptions due ...	
		Loans to ...	
		Immovable property ...	
		Goods and furniture ...	
		Other assets (to be specified)	
<b>Total Liabilities</b>		<b>Total Assets</b>	...

## CENTRAL TRADE UNION REGULATIONS, 1938

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## LIST OF SECURITIES

Particulars	Nominal	Market value	In hands of

Signed 1. 5.  
2. 6.  
3. 7.  
4.

## FORM B—REGISTER OF TRADE UNIONS

Serial No.

Officers.

Name of Union.

Address of Head Office.

Date of registration.

	Year of entering on office	Name	Age of entry	Address	Occupation	Year of relin- quishing office	Other offices held in addition to membership of executive, with dates.
Number of application form							
List of members applying for registration.							

1. 5.  
2. 6.  
3. 7.  
4.

## FORM C—CERTIFICATE OF REGISTRATION OF TRADE UNION.

No.

It is hereby certified that the  
Indian Trade Unions Act, 1926 this day of 19 .

has been registered under the

Seal

Registrar of Central Trade Unions.

FORM D—ANNUAL RETURN PRESCRIBED UNDER SECTION 28 OF THE INDIAN TRADE UNIONS ACT, 1926, FOR THE YEAR ENDING 31ST MARCH, 19 .

Name of Union.

Registered Head Office.

Number of certificate of registration.

Return to be made by federations of Trade Unions.	Number of unions affiliated at beginning of year.
This return need not be made by federations of Trade Unions.	Number of unions joining during the year.
	Number of unions disaffiliated at the end of year.
	Number of members on books at the beginning of year.
	Number of members admitted during the year (add)
	Together
	Number of members who left during the year (deduct)
	Total number of members on books at the end of the year.
	Males
	Females.
	Number of members contributing to political fund.

A copy of the rules of the Trade Union, corrected up to the date of despatch of this return, is appended.

Dated the

Secretary.

STATEMENT OF LIABILITIES AND ASSETS ON THE DAY OF 19 .

Liabilities	Rs. a. p.	Assets	Rs. a. p.
Amount of general fund ...		Cash—	
Amount of political fund ...		In hands of Treasurer ...	
Loans from ...		In hands of Secretary ...	
		In hands of... Bank ...	
		In the Bank ...	
Debts due to—		Securities as per list below ...	
Other liabilities (to be specified) ...		Unpaid subscriptions due ...	
		Loans to ...	
		Immovable property ...	
		Goods and furniture ...	
		Other assets (to be specified)	
Total Liabilities ...		Total Assets ...	

LIST OF SECURITIES

Particulars	Nominal value	Market value at date on which accounts have been made up	In hands of

Treasurer.

## GENERAL FUND ACCOUNT

Income	Rs. a. p.	Expenditure	Rs. a. p.
Balance at beginning of year		Salaries, allowances and expenses of officers ...	
Contributions from members at per member ...		Salaries, allowances and expenses of establishment ...	
Donations ...		Auditor's fees ...	
Sale of periodicals, rules, etc.		Legal expenses ...	
Interest on investments		Expenses in conducting trade disputes ...	
Income from miscellaneous sources (to be specified)		Compensation paid to members for loss arising out of trade disputes ...	
		Funeral, old age, sickness, unemployment benefits, etc. ...	
		Educational, social and religious benefits ...	
		Cost of publishing periodicals ...	
		Rents, rates and taxes ...	
		Stationery, printing and postage	
		Expenses incurred under section 15 (j) of the Indian Trade Unions Act, 1926 (to be specified) ...	
		Other expenses (to be specified)	
		Balance at the end of year ...	
TOTAL ...		TOTAL ...	

## POLITICAL FUND ACCOUNT

	Rs. a. p.		Rs. a. p.
Balance at beginning of year		Payments made on objects specified in Section 16 (2) of the Indian Trade Unions Act, 1926 (to be specified) ...	
Contributions from members at per member ...		Expenses of managements (to be specified) ...	
		Balance at the end of year ...	
TOTAL ...		TOTAL ...	

Treasurer.

## AUDITOR'S DECLARATION

The undersigned, having had access to all the books and accounts of the Trade Union and having examined the foregoing statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

Auditor.

The following changes of officers have been made during the year:—

## OFFICERS RELINQUISHING OFFICE

Name	Office	Date of relinquishing office



## OFFICERS APPOINTED

Name	Age	Office	Address	Occupation	Date of appointment

Secretary.

## INDUSTRIAL DISPUTE LEGISLATION

## Early Industrial Dispute Legislation

The growth of the industrial dispute legislation may be traced back as early as 1860 when at the instance of the Bombay Government, the Government of India passed the Employers and Workmen (Disputes) Act, 1860 (X of 1860) providing for speedy and summary disposal by magistrates of disputes concerning wages of workmen employed in railways, canals and other public works and making the breach of contract a criminal offence. The Act was repealed in 1932 by the Employers and Workmens (Disputes) Repealing Act, 1932 (II of 1932).

## Proposal for New Legislation

Prior to the first world war (1914-18), strike was a rare phenomenon in Indian industry and there were very few industrial disputes. Strikes appeared in violent forms after the war in 1920 and since then the strike fever is on the increase. In 1921 two Committees in Bengal and Bombay were appointed to investigate into the matter and to suggest remedial measures. The Bengal Committee suggested the formation of Joint Workers' Committees and opposed legislative measures and Government intervention. The Bombay Committee advocated the establishment of Industrial Courts. The general mill strike in 1924 led the Bombay Government to introduce a Bill, but its passage was withheld at the instance of the Government of India.

## Trade Disputes Act, 1929 (VI of 1929)

On the model of the British Industrial Courts Acts, 1919 and the British Trade Disputes and Trade Unions Act, 1927, the first Indian Trade Disputes Act was passed in 1929 (VI of 1929) with the object of providing a conciliation machinery to bring about peaceful settlement of industrial disputes and rendering lightning strikes in public utility concerns a punishable offence. The Act came into force on 7th May, 1929.

## Main Provisions of the Trade Disputes Act, 1929 (VI of 1929)

The Act authorises the Central or Provincial Governments to establish two Tribunals, *e.g.*, the Board of Conciliation or the Court of Inquiry to investigate and settle a dispute when it arises or is apprehended. A Board shall consist of an independent Chairman with several members whereas a Court shall consist of one or more persons and have to report on specific matters referred to them. The Act contains provisions rendering punishable by fine or imprisonment lightning strikes or lock-outs without 14 days' notice in public utility concerns such as railways, postal, telegraph and telephone services, power, light or water-supplying services or any system of conservancy or sanitation and aims at prevention of political and general strikes on the lines of the British Act of 1927. Workers resorting to or inciting others to resort to illegal strikes are liable to be punished

with 3 months' imprisonment or a fine of Rs. 200/- or both. The Act was an experimental measure and was to remain in force for five years.

#### **Trade Disputes (Extending) Act, 1934 (XIII of 1934)**

The Trade Disputes Act was experimental for 5 years and was due to expire on 7th May, 1934. The Trade Disputes (Extending) Act was enacted after consultation with the Provincial Governments to make the Act permanent and it received assent of the Governor-General on the 28th April, 1934.

#### **Trade Disputes (Amendment) Act, 1938 (XI of 1938)**

In order to give effect to the recommendations of the Royal Commission on Labour and in pursuance of an undertaking given in the Legislative Assembly in 1934, the Central Government introduced a Bill on 31st August, 1936 to further amend the Trade Disputes Act, 1929, and it was passed in 1938. The Act authorises Central and Provincial Governments to appoint Conciliation Officers for mediating in or promoting the settlement of trade disputes. The Act extends trade disputes to include disputes between employers and employees or between workmen and workmen and includes water transport and tramways under public utility service. The Act also makes the provision concerning illegal strikes and lock-outs less restrictive.

#### **Emergency Legislation Relating to Industrial Disputes**

Several emergency measures were adopted by the Central Government concerning industrial disputes during the war. In January, 1942, the Central Government added Rule 81A to the Defence of India Rules by a notification to restrain strikes and lock-outs. The new Rule empowered the Government (1) to make general or special order to prohibit strikes or lock-outs in connection with any trade dispute unless reasonable notice is given, (2) to refer any dispute to conciliation or adjudication, (3) to require employers to observe such terms and conditions as may be specified and (4) to enforce the decisions of the adjudicators.

In August, 1942, the Central Government promulgated an order under this Rule prohibiting strikes or lock-outs without 14 days' previous notice. Strikes or lock-outs were also prohibited during the pendency of conciliation or adjudication proceedings.

#### **Industrial Disputes Act, 1947 (XIV of 1947)**

Rule 81A of the Defence of India Rules was due to lapse on 1st October, 1946 and was kept in force by the Emergency Powers (Continuance) Ordinance, 1946. A Bill was introduced by the Government of India in the Legislative Assembly on the 28th October, 1946 embodying the essential principles of Rule 81A and retaining the provisions of Trade Disputes Act, 1929, with a view to make provisions for investigation and settlement of industrial disputes. The Industrial Disputes Act was passed in March, 1947 and came into force from 1st April, 1947 repealing the Trade Disputes Act, 1929.

#### **First Legislation under Five Year Labour Programme**

Under the Five Year Labour Programme, the Central Government, with a view to improve the existing industrial relations between the employers and the employees, proposed to enact a comprehensive legislation for avoiding strikes and lock-outs specially in public utility services and essential undertakings and for providing machinery for peaceful settlement of industrial disputes and constituting joint works committees for enquiring into and settling individual grievances and day-to-day difficulties. The Industrial Disputes Act, 1947 was the first legislative measure undertaken by the Government under the above Programme.

The Act introduced the principles of compulsory arbitration and prohibited strikes without notice in respect of public utility services. Two new institutions were also introduced—(1) Works Committee consisting of the representatives of employers and employees and (2) Industrial Tribunals consisting of one or more members possessing qualifications ordinarily required for appointments as a High Court judge.

#### **Amendments to Industrial Disputes Act, 1947 in 1949, 1950, 1951 and 1952**

Up to 1952, the Industrial Disputes Act, 1947 was amended by (1) the Industrial Disputes (Banking and Insurance Companies) Act, 1949 (54 of 1949) which was enacted on the 15th December, 1949 to remove the difficulties created by piece-meal adjudication of banking and insurance companies having branches in more than one State and to replace the Industrial Disputes (Banking and Insurance Companies) Ordinance promulgated in April, 1949 and which made some minor changes. (2) The Industrial Disputes (Appellate Tribunal) Act, 1950 was passed on the 20th May, 1950 and the Act made provision for the establishment of a Labour Appellate Tribunal. Several important amendments were introduced extending the Act to the whole of India except the State of Jammu and Kashmir and relating to enforcement of awards, power of the Tribunals to hear complaints regarding alteration in the service conditions of workers during pendency of proceeding, representation of parties in the proceeding and recovery of money due from the employers. (3) The Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 was enacted on the 27th June, 1951 as a result of the Supreme Court judgment declaring the awards of the All India Industrial (Bank Disputes) commonly known as Sen Tribunal as void on the ground of defects in the constitution of the said Tribunal and it introduced some minor changes. (4) The Industrial Disputes (Amendment) Act, 1952 was enacted in March, 1952 replacing the Industrial Disputes (Amendment) Ordinance, 1951 promulgated on the 5th December, 1951 and the Act removed certain legal defects and widened the powers of the Government to refer the disputes to Boards of Conciliation, Courts of Inquiry or Industrial Tribunals.

#### **Main Provisions of the Industrial Disputes Act, 1947 as amended up to 1952**

The Act provides for setting up of Works Committees with a view to foster the spirit of joint consultation between the employers and workers, to remove the causes of friction in the day-to-day administration of the workshop and to promote measures to secure good relations and amity between the parties. The Act empowers the appropriate Government to constitute Works Committees in every industrial establishment employing 100 workers or more.

The Act gives a new orientation to the conciliation machinery provided therein. The Act makes it compulsory for Government to refer all disputes relating to public utility services for conciliation, but it is optional in case of other disputes. If an agreement is reached in course of conciliation proceedings, it becomes effective from the date of signing or from the date agreed upon and will be binding for such period as may be agreed upon, or if there is no such provision, for a period of six months and thereafter until revoked by two month's notice by either party. Time limits have been prescribed for conclusion of conciliation proceedings with a view to expedition—14 days in case of conciliation by a Conciliation Officer and two months in case of a Board of Conciliation.

The appropriate Government may refer the dispute to an Industrial Tribunal for adjudication, on receipt of the report of the Conciliation Officer or Board of Conciliation. The Act lays down that every member of the Industrial Tribunal must be an independent person and must be a District Judge or qualified for

appointment as a High Court Judge and where a Tribunal consists of two or more persons, every member except the Chairman, shall possess such qualifications as may be prescribed. The awards of the Tribunals become binding on the parties on the expiry of 30 days from the date of their publication and where there is no provision for publication, 30 days from the date on which they are made. The period of the operation of the award is one year, but the period can be reduced by the appropriate Government who are also authorised to extend it for a period not exceeding one year at a time subject to a total period not exceeding three years. The award shall also be binding on the parties even after the stipulated period until a period of two months has elapsed from the date on which notice is given by one party of its intention to terminate the award.

The Act prohibits strikes and lock-outs during the pendency of conciliation and adjudication proceedings, of settlements reached in the course of conciliation proceedings and of awards of the Industrial Tribunals enforced by the appropriate Governments.

The Act provides that during the pendency of any proceedings, employers shall neither alter the conditions of service of any worker, nor dismiss or punish him without obtaining the permission of the Conciliation Officer, Board or Tribunal. Workmen aggrieved by an act of contravention can lodge a complaint before the Industrial Tribunal which is empowered to deal with the complaint as if it were a dispute referred to or pending before it.

The Act makes special provision for representation by parties to the dispute. The workers are authorised to be represented by an officer of a registered trade union of which they are members or by an officer of a federation of trade unions to which their trade union is affiliated. Similarly, the employers are authorised to be represented by an officer of the Association of which they are members or an officer of a Federation of Associations of Employers to which their Association is affiliated. Either party can be represented by a legal practitioner if the other party does not raise any objection and if the Tribunal permits it.

The Act empowers the appropriate Government to declare, if public interest or emergency so requires, any of the following industries to be public utility service for a period not exceeding six months—(1) transport (other than railways) for the carriage of passengers or goods by land, water or air; (2) coal; (3) cotton textiles; (4) foodstuffs and (5) iron and steel.

### **Industrial Disputes (Appellate Tribunal) Act, 1950 (LXVIII of 1950)**

The working of the Act revealed the need of a central Appellate Authority to review the decisions of large number of Industrial Tribunals set up by the Central and State Governments and to co-ordinate their activities. With a view to constitute such an authority, the Industrial Disputes (Appellate Tribunal) Act was passed on the 20th May, 1950. The Act applies to the whole of India except the State of Jammu and Kashmir and authorises the Central Government to constitute Labour Appellate Tribunal for hearing appeals from awards or decisions of Industrial Tribunals, Courts, Wage Boards and other statutory bodies set up under Central or State laws for adjudication of industrial disputes. The Appellate Tribunal is to consist of a Chairman and such number of members as may be decided by the Central Government. The Chairman of the Appellate Tribunal is authorised to constitute different Benches of the Appellate Tribunal for exercising its powers and functions.

The principal seat of the Appellate Tribunal is at Calcutta and four Benches of the Tribunal are functioning at Bombay, Calcutta, Lucknow and Madras.

The Central Government, by a notification dated the 1st October, 1951 framed the Industrial Disputes (Appellate Tribunal) Rules, 1951. The Labour Appellate

Tribunal framed certain Orders in August, 1951, to regulate its practice and procedure.

There were several complaints about enormous delays in settling labour disputes through Labour Appellate Tribunal and the Central Government decided to abolish the Tribunal and this decision was welcomed by the State Governments and labour unions but opposed by the employers. The Act was repealed by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (XXXVI of 1956) which came into force from 1st September, 1956 under the Ministry of Labour Notification No. S.R.O. 1935 dated the 28th August, 1956.

### **Labour Relations Bill, 1950 (Bill No. 6 of 1950)<sup>1</sup>**

In the light of the experience of the working the Industrial Disputes Act, the Central Government decided to make a radical revision of the law. The Labour Minister introduced the Labour Relations Bill in the Parliament on the 24th January, 1950 to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of the labour disputes and certain matters incidental thereto.

**1 Statement of Objects and Reasons.**—The Labour Relations Bill which breaks new ground is the first attempt at providing the country with a comprehensive law on the subject, superseding the Industrial Disputes Act, 1947 and similar legislations obtaining in States. Uniformity in the basic law governing labour relations has, in recent times, become imperative, particularly in view of the necessity for the setting up of an All-India Appellate Tribunal with jurisdiction over all Union and State Tribunals.

2. The Industrial Employment (Standing Orders) Act, 1946, which provides for the framing of standing orders regulating the day-to-day working of an establishment is now a separate enactment, but its provisions have been incorporated in the Bill as they cover matters which are essentially part and parcel of the relations between management and labour. The Bill is extensive in scope and applies to all categories of employees except civil servants, persons employed in the defence forces and domestic servants and to all establishments working with more than ten employees.

3. Three new authorities are envisaged in the Bill, namely, Standing Conciliation Boards, Labour Courts and the Appellate Tribunal. Standing Conciliation Boards and Labour Courts have been tried in certain States with a fair measure of success. The Appellate Tribunal, the setting up of which will be the responsibility of the Union, is a new authority of considerable importance. Lack of uniformity in the awards given by the large number of Tribunals in the country has resulted in divergent, if not conflicting, decisions causing much embarrassment to employers, particularly those with establishments in more than one State, and restlessness and expectancy among employees who find their compeers in a neighbouring district or State much better off than themselves. It will be the responsibility of the Appellate Tribunal to ensure all possible co-ordination and uniformity in the settlement of labour disputes throughout the country. It will be noticed that though a large number of authorities are enumerated in the Act, some are purely optional, some are to be set up only when the necessity arises, and only two, viz., Registering Officers and Conciliation Officers, have of necessity to be appointed from the start.

4. Constitutional and practical difficulties have made it necessary for the Union to assume a wider jurisdiction than in the past. Regulation and control of a number of industries by the Union may necessitate the regulation of labour relations in some of those industries by the Union. Power has been taken in the Bill for that purpose, but the assumption of control by the Union will not be automatic or even immediate and would take place only when a situation arose warranting such a course. Even in that case, the States concerned would be consulted beforehand. Where establishments such as banks, insurance companies, transport services, etc., have branches and activities in more than one State, practical difficulties necessitate the regulation of labour in those employments by the Union.

5. Faith in the efficacy of friendly negotiations between an employer and his employees is the very basis of the Bill. Negotiations must be attempted at an early stage and in a proper atmosphere and not after a strike has already taken place or a Conciliation Officer has been forced to come on the scene. The Bill provides for a notice requiring the other party to start negotiations within seven days. If the party which receives the notice takes advantage of that opportunity (which it must in a public utility service), negotiations

The Bill was a comprehensive measure and sought to repeal (1) Industrial Employment (Standing Orders) Act, 1946; (2) Industrial Disputes Act, 1947; (3) Industrial Disputes (Banking and Insurance Companies) Act, 1949; (4) Industrial Disputes (Appellate Tribunal) Act, 1950; (5) Bombay Industrial Relations Act, 1946; (6) United Provinces Industrial Disputes Act, 1947; (7) Central Provinces and Berar Industrial Disputes Settlement Act, 1947 and (8) Industrial Disputes (Madras Amendment) Act, 1949.

The Bill was extensive both in scope and character and would apply to all categories of employees except civil servants, persons employed in defence forces and domestic servants and to all establishments working with more than ten employees. The provisions of the Industrial Employment (Standing Orders) Act, 1946 was incorporated in the Bill as it covered matters essentially part and parcel of the relations between management and labour.

The most important feature of the Bill was the provision for collective bargaining for regulation of labour-management relations. A simple procedure for collective bargaining was adopted in place of less formal procedure for negotiations and conciliation.

Other special features of the Bill were the provisions relating to retrenchment to be effected after prescribed notice and payment of gratuity and go-slow policy

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must be concluded within 14 days in the case of a public utility service and 7 days in any other case unless those periods are extended by mutual agreement. Where negotiations break down, a 14 days notice is required in public utility services before a strike or lock-out can be declared.

6. Collective bargaining which is the recognised procedure in the West for the regulation of labour-management relations has hitherto not received in this country the attention it deserves. An attempt has been made to introduce a simple procedure for collective bargaining which may be adopted in place of the less formal procedure for negotiations and conciliation. Even that simple procedure may, in the first instance, be suited only to the industrially advanced States. After experience has been gained of the working of collective bargaining, it may be necessary to improve the procedure, but it has been considered advisable not to complicate it by making it too rigid from the very beginning.

7. Where Labour Courts are set up in a State, they will have jurisdiction over all disputes except those mentioned in Schedule II which will continue to remain under the jurisdiction of Labour Tribunals. Where Labour Courts are not set up, all disputes are referable to Labour Tribunals at the discretion of the appropriate Government.

8. Among the other special features of the Bill may be mentioned the provisions relating to retrenchment, go-slow policy and the exercise of control over certain categories of undertakings in certain circumstances. Retrenchments can be effected only after the prescribed notice has been given and gratuity paid. A go-slow policy, whether on the part of employers or of employees, if proved before a Labour Tribunal, will be deemed to be an illegal lock-out or strike and dealt with as such. The power to exercise control over undertakings is restricted to those deemed essential for the maintenance of order and for supplies and services essential to the life of the community and is subject to stringent safeguards.

9. A serious drawback of the Industrial Disputes Act, 1947 is the fact that the provisions contained in it for the enforcement of settlements and awards are too weak to be effective and that persons entitled to relief find it very difficult to enforce their rights. The Bill seeks to remedy those defects. The penalty for breach of a settlement, collective agreement, order or award has been substantially increased, and amounts due from an employer may be recovered as if they were arrears of land revenue. In suitable cases Government might step in and exercise control over the undertaking. Employees are liable to forfeit their claims to bonus and the employer's share of the provident fund and to be dismissed from service. Trade unions are liable to forfeit their registration and recognition and certified bargaining agents, their certificates.

10. It should be the goal of any progressive labour policy to so influence labour-management relations as to make the withdrawal of State intervention possible. A strong trade union movement which is conscious alike of its rights and responsibilities—one that will stand on its own legs and not lean for ever on a crutch—can alone make industrial peace enduring. It is the aim of the Bill to build up labour-management relations on such sure foundations, and if rights have been tempered with responsibilities, the scales have been held even as between the parties (Gazette of India, 1950, Part V, pp. 52-54.)

on the part of the employers or employees, which should be deemed to be an illegal lock-out or strike and dealt with as such.

The Bill authorises the Central Government to regulate and control a number of industries deemed essential to the life of the community and for maintenance of order, subject to stringent safeguards.

The Bill was placed for discussion in the tenth session of the Indian Labour Conference held at Delhi in March, 1950 and was subsequently referred to the Select Committee which suggested a number of modifications relating to strikes, lock-outs, dismissals and retrenchment and submitted the report on the 1st December, 1950. There were several objections to the Bill as overwhelming emphasis was sought to be placed on the compulsory adjudication and judicial machinery at practically every stage of the settlement of a dispute and the machinery was complicated and involved protracted legal proceedings thereby leading to delay in decision. The Bill lapsed with the dissolution of the Parliament.

### **Industrial Disputes (Amendment) Act, 1953 (XLIH of 1953)**

There had been a large volume of involuntary unemployment in recent years due to closure of industrial establishments for reasons other than industrial disputes. The provisions regarding "lay-off" was subject of agreement between employers and employees at the thirteenth session of the Standing Labour Committee held at Delhi in July, 1953. The President of India promulgated the Industrial Disputes (Amendment) Ordinance (Ord. V of 1953) on the 24th October, 1953 laying down the conditions under which workers might be laid-off or retrenched. The Ordinance was replaced by the Industrial Disputes (Amendment) Act, 1953 (XLIH of 1953).

The Amending Act lays down that no worker who has rendered a year's continuous service or more, may be retrenched without being given one month's notice or wages in lieu thereof as well as compensation for losing his job. The compensation is calculated at the rate of 15 days' average pay for every completed year of service or part thereof, in excess of six months and is applicable to factories and mines only.

### **Industrial Disputes (Amendment) Act, 1954 (XLVIII of 1954)**

The Industrial Committee on Plantation in its fifth meeting held at Calcutta in December, 1954 considered the question of lay-off compensation to the plantation workers and recommended that the provisions of the Industrial Disputes (Amendment) Act of 1953 relating to lay-off should be made applicable to plantation industry.

The Industrial Disputes (Amendment) Act, 1954 (XLVIII of 1954) was passed to give effect to the above recommendation. The Amending Act extends the provisions relating to lay-off and retrenchment to plantation workers with effect from the 1st of April, 1954.

### **Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (XXXVI of 1956)**

Sri Jagjiwan Ram's Labour Relations Bill, 1950 having lapsed and Sri V. V. Giri's proposed Industrial Relations Bill having not received whole-hearted support from different Ministries of the Central and State Governments and employers and labour, the question of enacting suitable legislation on the subject or revision of the legislation was discussed in the meetings of the Joint Consultative Board of Industry and Labour and also by the Planning Commission.

The Central Government introduced the Industrial Disputes (Amendment and Miscellaneous Provisions) Bill, 1955 in the Lok Sabha on the 27th September, 1955 making certain important changes in the Industrial Disputes Act, 1947 and the

Industrial Employment (Standing Orders) Act, 1946 and for repeal of the Industrial Disputes (Appellate Tribunal) Act, 1950. The Act was passed by the Lok Sabha on the 24th July, 1956 and received President's assent on the 28th August, 1956. The revised definition of "workman" and application of the Amending Act were brought into force from the 29th August, 1956.

The Act enlarges the definition of the word "workman" covering technical staff and supervisory personnel drawing a salary up to Rs. 500 per month. A new Chapter has been inserted providing that the employer shall not introduce any change in respect of certain specified matters without giving notice to the workman concerned. The employers shall give 21 days' notice of any changes in the conditions of service of workmen mentioned in the Fourth Schedule. The existing provisions of Section 33 are altered so as to provide that where, during the pendency of proceedings, an employer finds it necessary to proceed against any workman in regard to any matter unconnected with the dispute, he may do so in accordance with the standing orders; but where the action taken involves discharge or dismissal, he has to pay one month's wages to the workman and simultaneously file an application for approval before the appropriate authority.

The Act abolishes the Labour Appellate Tribunal and seeks to set up a three-tier adjudication machinery of Labour Courts, Industrial Tribunals and National Tribunals, with jurisdiction to decide disputes pertaining to specified matters. There is no provision for appeal from the decisions of any of these Tribunals.

The Act has added the following five industries (apart from five industries in the original Act) which may be declared to be public utility services—(1) banking; (2) cement; (3) defence establishments; (4) service in hospitals and dispensaries and (5) fire brigade service. The Act will not override any State laws and will not be applicable to proceedings pending before Tribunals before its commencement.

#### **Industrial Disputes (Amendment) Act, 1956 (XLI of 1956)**

There was some doubt about the ambiguity regarding quantum of lay-off compensation and also whether retrenchment compensation becomes payable by reason of change of employers. The Industrial Disputes (Amendment) Bill was introduced in the Rajya Sabha on the 23rd March, 1956 to clear up these points and after being passed by the Rajya Sabha, was passed by the Lok Sabha on the 20th August, 1956.

The Amending Act specifies the circumstances under which some compensation beyond the first 45 days of lay-off would be applicable. The Act also makes special provisions relating to workmen employed in undertakings which have been transferred. The Act received assent of the President on the 4th September, 1956.

#### **Amendment of the Act by State Governments**

The Madras High Court having declared that section 10 of the Industrial Disputes Act, 1947 does not empower the Government to refer dispute to an Industrial Tribunal constituted under the Act, the Madras Government introduced a Bill to amend the Industrial Disputes Act, 1947, to validate all proceedings taken and awards made in respect of any such reference. **The Industrial Disputes (Madras Amendment) Act, 1949** received the assent of the Governor-General on the 10th June, 1949.

The Uttar Pradesh Government amended the Act in October, 1951 to remove certain legal difficulties. The Mysore Government amended the Act in July, 1953 for transferring industrial disputes from one Tribunal to another. The Saurashtra Government amended the Act in December, 1953 in its application to the State with a view to make provisions for registration of voluntary agreements and representative unions.



### State Legislations on Industrial Disputes

The following States have enacted separate laws on the subject:

#### (1) BOMBAY.

**Bombay Trade Disputes Conciliation Act, 1934** provided for appointment of Labour Officers, Special Conciliators and authorised the Government to appoint Commissioner of Labour as the Chief Conciliator. This Act was repealed by the **Bombay Industrial Disputes Act, 1938** which provided for an elaborate machinery for promotion of peaceful and amicable settlement of industrial disputes.

#### **Bombay Industrial Relations Act, 1946 (Bom. Act XI of 1947)**

The Bombay Industrial Disputes Act of 1938 was repealed and replaced by the Bombay Industrial Relations Act which provides for quicker and more efficient disposal of industrial disputes and gives a greater impetus to labour to organise itself. Some fundamental changes have been introduced by the new Act—(1) creation of a new class of approved unions and maintenance of a list of such approved unions, authorising them to collect subscriptions, hold discussions with the employers for prevention and settlement of industrial disputes, (2) establishment of Labour Courts, which are entirely new in India, to decide cases regarding illegal strikes and lock-outs and also to decide disputes regarding illegal changes in the standing orders or conditions of work, (3) establishment of Joint Committees consisting of equal number of employers' and employees' representatives in various occupations and undertakings in an industry, (4) formation of Wage Boards for standardisation of wages, rationalisation, etc. The Act was amended in 1948 (twice), 1949, 1953, 1955 and 1956.

#### (2) MADHYA PRADESH

**The Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (XXIII of 1947)** which was passed in May, 1947, provides for promotion of peaceful settlement of industrial disputes by conciliation and arbitration but is a less comprehensive measure than the Bombay Act. It makes provisions for the constitution of permanent Conciliation Machinery. The Act provides for registration of recognised unions and for compulsory framing and settlement of standing orders. The Act was amended in December, 1947, May, 1951 and November, 1955. The last amendment was undertaken for establishment of Wage Boards to bring it in line with the Bombay Act.

#### (3) UTTAR PRADESH

The Industrial Disputes Act, 1947 not being entirely suitable to the conditions of Uttar Pradesh, the State Government promulgated two successive Ordinances, viz., United Provinces Industrial Disputes Ordinance on the 14th May, 1947 and the United Provinces Industrial Disputes (Amendment) Ordinance on the 10th June, 1947, pending subsequent enactment of a comprehensive measure.

**The United Provinces Industrial Disputes Act, 1947 (Act XXVIII of 1947)** was passed in December, 1947 providing for powers to prevent strikes and lock-outs and to settle industrial disputes and for other incidental matters.

The Act retains the existing machinery of Boards of Conciliation and Courts of Inquiry and creates two new institutions—Works Committees and Industrial Tribunals for prevention and settlement of industrial disputes. The Act confers wide powers on Government authorising them to issue orders prohibiting strikes or lock-outs generally or in connection with any industrial dispute and requiring employers and/or workmen to observe such conditions and terms of employment as may be specified in the order.

The Act also lays down penalty for illegal strikes and lock-outs and for instigating or inciting the same and also for breach of settlement or award. The Act was amended in August, 1950 and October, 1953.

## INDUSTRIAL DISPUTES ACT, 1947 (XIV OF 1947)

### Statement of Objects and Reasons<sup>1</sup>

Experience of the working of the Trade Disputes Act, 1929, has revealed that its main defect is that while restraints have been imposed on the rights of strike and lock-out in public utility services, no provision has been made to render the proceedings institutable under the Act for the settlement of an industrial dispute, either by reference to a Board of Conciliation or to a Court of Inquiry conclusive and binding on the parties to the dispute. This defect was overcome during the war by empowering under Rule 81-A of the Defence of India Rules, the Central Government to refer industrial disputes to adjudicators and to enforce their awards. Rule 81-A which was to lapse on the 1st October, 1946, is being kept in force by the Emergency Powers (Continuance) Ordinance, 1946, for a further period of six months, and as industrial unrest, in checking which this rule have proved useful, is gaining momentum due to stress of post-war industrial re-adjustment, the need of permanent legislation in replacement of this rule, is self-evident. This Bill embodies the essential principles of Rule 81-A which have proved generally acceptable to both employers and workmen, retaining intact, for the most part, the provisions of the Trade Disputes Act, 1929.

2. The two new institutions for the prevention and settlement of industrial disputes provided for in the Bill are the Works Committees consisting of representatives of employers and workmen, and Industrial Tribunals consisting of one or more members possessing qualifications, ordinarily required for appointments as Judges of a High Court. Power has been given to appropriate Governments to require Works Committees to be constituted in every industrial establishment employing 100 workmen, or more and their duties will be to remove causes of friction between the employer and workmen in the day to day working of the establishment and to promote measures for securing amity and good relationship between them. Industrial peace will be most enduring where it is founded on voluntary settlement, and it is hoped that the Works Committees will render recourse to the remaining machinery provided for in the Bill for the settlement of disputes infrequent. A reference to an Industrial Tribunal will lie where both parties to any industrial dispute apply for such reference and also where the appropriate Government considers it expedient so to do. An award of a Tribunal may be enforced either wholly or in part by the appropriate Government for a period not exceeding one year. The power to refer disputes to Industrial Tribunals and enforce their awards is an essential corollary to the obligation that lies on the Government to secure conclusive determination of the disputes with a view to redressing the legitimate grievances of the parties thereto, such obligation arising from the imposition of restraints on the rights of strike and lock-out, which must remain inviolate, except where considerations of public interest override such rights.

3. The Bill also seeks to re-orient the administration of the conciliation machinery provided in the Trade Disputes Act. Conciliation will be compulsory in all disputes in public utility services and optional in the case of other industrial establishments. With a view to expedite conciliation proceedings time limits have been prescribed for conclusion thereof—14 days in the case of conciliation officers and two months in the case of Board of Conciliation, from the date of notice of strike. A settlement arrived at in the course of conciliation proceedings will be binding for such period as may be agreed upon by the parties and where no period has been agreed upon, for a period of one year; and will continue to be binding until revoked by three months' notice by either party to the dispute.

4. Another important new feature of the Bill relates to the prohibition of strikes and lock-outs during the pendency of conciliation and adjudication proceedings, of settlements reached in the course of conciliation proceedings and of awards of Industrial Tribunals declared binding by the appropriate Government. The underlying argument is that where a dispute has been referred to conciliation or adjudication a strike or lock-out in furtherance thereof, is both unnecessary and inexpedient. Where on the date of reference to conciliation or adjudication, a strike or lock-out is already in existence, power is given to the appropriate Government to prohibit its continuance lest the chances of settlement or speedy determination of the dispute should be jeopardized.

<sup>1</sup> Gazette of India, 1946, Part V, pp. 239-240.

5. The Bill also empowers the appropriate Government to declare, if public interest or emergency so requires, by notification in the Official Gazette, any industry to be a public utility service, for such period, if any, as may be specified in the notification.

### **INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1952 (XVIII OF 1952)<sup>2</sup>**

#### **Statement of Objects and Reasons<sup>3</sup>**

The Industrial Disputes (Amendment) Bill, 1952 seeks to make certain changes in the law relating to the adjudication of industrial disputes which experience has shown are urgently required in order to remove doubts and to reduce litigation. The question whether a person holding shares in an establishment can be deemed to be "independent" for the purpose of appointment on a Tribunal called upon to adjudicate on a dispute affecting that establishment was recently raised and was held to be not free from doubts. The Bill seeks to remove the disqualification, if any, attaching to the holding of shares. Occasionally when disputes arise in the large majority of units of an industry, it becomes necessary to include in the adjudication even the few units which show no evidence of the existence of actual disputes but which, if left out, are sure to raise disputes of their own. Power is sought to be taken for such inclusion.

### **INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1953 (XLIII OF 1953)**

#### **Statement of Objects and Reasons<sup>4</sup>**

The Industrial Disputes (Amendment) Bill, 1953 seeks to provide for payment of compensation to workmen in the event of their lay-off or retrenchment. The provisions included in the Bill are not new and were discussed at various tripartite meetings. Those relating to lay-off are based on an agreement entered into between the representatives of employers and workers who attended the 13th session of the Standing Labour Committee. In regard to retrenchment, the Bill provides that a workman who has been in continuous employment for not less than one year under an employer shall not be retrenched until he has been given one month's notice in writing or one month's wages in lieu of such notice and also gratuity calculated at 15 days' average pay for every completed year of service or any part thereof in excess of six months. A similar provision was included in the Labour Relations Bill, 1950 which has since lapsed. Though compensation on the lines provided for in the Bill is given by all progressive employers; it is felt that a common standard should be set for all employers.

### **INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1954 (XLVIII OF 1954)**

#### **Statement of Objects and Reasons<sup>5</sup>**

The Industrial Disputes (Amendment) Act, 1953, provides for payment of lay-off compensation to workers in factories covered by the Factories Act, 1948, and in mines coming under the Mines Act, 1952. Workers in plantations have, however, not been included in the Act. In view of the insistent demand of plantation workers, the question of extending the provisions relating to lay-off benefits to them was placed before the meeting of the Industrial Committee on Plantations held at Calcutta in January, 1954. The Committee recommended that the provisions of the Industrial Disputes (Amendment) Act, 1953, relating to lay-off should be applied to the plantation industry with effect from the 1st April, 1954 subject to the condition that none of the provisions of the Act derogated from the effect of any statutory notifications issued by Governments or of any agreements or contracts entered into between the parties requiring the provision by employers of a minimum number of days of work or wages or compensation to workers. The Bill is intended to give statutory effect to the above recommendation.

<sup>2</sup> The Industrial Disputes Act was also amended by the Industrial Disputes (Banking and Insurance Companies) Act, 1949 (54 of 1949) and the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 (40 of 1951). Statement of Objects and Reasons of these Amending Acts have been printed at page 1404 and page 1406.

<sup>3</sup> Gazette of India, 1952, Part II—Section 2, p. 70.

<sup>4</sup> Gazette of India Extraordinary, 1953, Part II—Section 2, pp. 955-956.

<sup>5</sup> Gazette of India Extraordinary, 1954, Part II—Section 2, page 282.

## **INDUSTRIAL DISPUTES (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 1956 (XXXVI of 1956)**

### **Statement of Objects and Reasons<sup>a</sup>**

The Industrial Disputes (Amendment and Miscellaneous Provisions) Bill, 1955, seeks to make certain long needed changes in the Industrial Disputes Act, 1947, and the Industrial Employment (Standing Orders) Act, 1946, and to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950.

2. The present definition of 'workman' in section 2(s) of the Industrial Disputes Act has led to uncertainty, particularly in the case of technical and supervisory personnel. It is, therefore, proposed to enlarge the definition to cover supervisory personnel, whose emoluments do not exceed Rs. 500 per mensem, and also the technical personnel.

3. There has been a persistent demand that notice should be given whenever it is proposed to make any change in the conditions of service of workmen. Therefore, a new Chapter, namely, Chapter IIA is proposed to be inserted to provide that the employer shall not introduce any change in respect of certain specified matters without giving to the workmen concerned 21 days' notice of his intention to do so.

4. The existing provisions of section 33 of the Act prohibit during the pendency of any conciliation proceeding or proceeding before a Tribunal any change being made in the conditions of service of, or any action being taken against, the workmen concerned in the dispute except with the express written permission of the authority concerned. The number of applications for such permission is frequently large and their disposal takes time. Employers have complained that they are therefore prevented from taking action even in obvious cases of misconduct and indiscipline unconnected with the dispute till long after the offence has been committed. It is proposed to alter the existing provisions so as to provide that, where, during the pendency of proceedings an employer finds it necessary to proceed against any workman in regard to any matter unconnected with the dispute, he may do so in accordance with the Standing Order applicable to the workman, but where the action taken involves discharge or dismissal, he will have to pay the workman one month's wages and simultaneously file an application before the authority, before which the proceeding is pending, for its approval of the action taken. Protection on the lines of the existing provisions will continue to be available to all workmen in regard to any matter or misconduct connected with the dispute. A limited number of representatives of the workers will, however, be given protection in all matters whether connected with the dispute or otherwise.

5. There is a large volume of criticism that appeals filed before the Appellate Tribunal take a long time for disposal and involve a great deal of expenditure which the workers cannot afford. It is proposed to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950, and at the same time, to substitute the present system of tribunals by a three-tier system of original tribunals, manned by personnel of appropriate qualifications. References to the National Tribunals will be made by the Central Government and they will cover disputes which involve questions of national importance or which are of such a nature that establishments situated in more than one State are likely to be interested in, or affected by, the disputes.

6. Provision is also made for voluntary reference of disputes to arbitration by the parties themselves by written agreement and for the enforcement of agreements between employers and workmen reached otherwise than in the course of conciliation.

7. Opportunity has been taken to carry out certain essential amendments to the Industrial Employment (Standing Orders) Act, 1946. It is proposed to empower both the Certifying Officer and the Appellate Authority to take into account the fairness or reasonableness of the standing orders before they are certified. Under the present law, only the employer can take steps to modify the existing standing orders. A similar right is being provided in the Bill for workmen. Provision has also been made for the resolution of differences that may arise between the parties as to the application and interpretation of standing orders. In case of any such difference, the parties can approach a Labour Court without the intervention of the appropriate Government.

## **INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1956 (XLI of 1956)**

### **Statement of Objects and Reasons<sup>b</sup>**

Doubt has been raised whether retrenchment compensation under the Industrial Disputes Act, 1947, becomes payable by reason merely of the fact that there has been

<sup>a</sup> Gazette of India Extraordinary, 1955, Part II—Sec. 2, pp. 430-432.

<sup>b</sup> Gazette of India Extraordinary, 1955, Part II—Sec. 2, p. 307.

a change of employers, even if the service of the workman is continued without interruption and the terms and conditions of his service remain unaltered. This has created difficulty in the transfer, reconstitution and amalgamation of companies and it is proposed to make the intention clear by amending section 25F of the Act.

2. Questions have also been raised whether a workman who is laid-off for more than forty-five days continuously is entitled to lay-off compensation for any period beyond the first forty-five days. Opportunity has been taken to remove the ambiguity by specifying the circumstances under which such compensation beyond the first forty-five days would be admissible to a workman.

## INDUSTRIAL DISPUTES ACT, 1947 (XIV OF 1947)

### Arrangement of Sections

#### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II—AUTHORITIES UNDER THIS ACT

3. Works Committee.
4. Conciliation officers.
5. Boards of Conciliation.
6. Courts of Inquiry.
7. Labour Courts.
- 7A. Tribunals.
- 7B. National Tribunals.
- 7C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals.
8. Filling of vacancies.
9. Finality of orders constituting Boards, etc.

#### CHAPTER IIA—NOTICE OF CHANGE

- 9A. Notice of change.
- 9B. Power of Government to exempt.

#### CHAPTER III—REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS

10. Reference of disputes to Boards, Courts or Tribunals.
- 10A. Voluntary reference of disputes to arbitration.

#### CHAPTER IV—PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

11. Procedure and powers of conciliation officers, Boards, Courts and Tribunals.
12. Duties of conciliation officers.
13. Duties of Boards.
14. Duties of Courts.
15. Duties of Labour Courts, Tribunals and National Tribunals.
16. Form of report or award.
17. Publication of reports and awards.
- 17A. Commencement of the award.
18. Persons on whom settlements and awards are binding.
19. Period of operation of settlements and awards.
20. Commencement and conclusion of proceedings.
21. Certain matters to be kept confidential.

#### CHAPTER V—STRIKES AND LOCK-OUTS

22. Prohibition of strikes and lock-outs.
23. General prohibition of strikes and lock-outs.
24. Illegal strikes and lock-outs.
25. Prohibition of financial aid to illegal strikes and lock-outs.

#### CHAPTER VA—LAY-OFF AND RETRENCHMENT

- 25A. Application of sections 25C to 25E.
- 25B. Definition of one year of continuous service.

- 25C. Right of workmen laid-off for compensation.
- 25D. Duty of an employer to maintain muster rolls of workmen.
- 25E. Workmen not entitled to compensation in certain cases.
- 25F. Conditions precedent to retrenchment of workmen.
- 25FF. Special provision relating to workmen employed in undertakings which are transferred.
- 25G. Procedure for retrenchment.
- 25H. Re-employment of retrenched workmen.
- 25I. Deleted.
- 25J. Effect of laws inconsistent with this Chapter.

## CHAPTER VI—PENALTIES

- 26. Penalty for illegal strikes and lock-outs.
- 27. Penalty for instigation, etc.
- 28. Penalty for giving financial aid to illegal strikes and lock-outs.
- 29. Penalty for breach of settlement or award.
- 30. Penalty for disclosing confidential information.
- 31. Penalty for other offences.

## CHAPTER VII—MISCELLANEOUS

- 32. Offence by companies, etc.
- 33. Conditions of service etc., to remain unchanged under certain circumstances during pendency of proceedings.
- 33A. Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.
- 33B. Power to transfer certain proceedings.
- 33C. Recovery of money due from an employer.
- 34. Cognizance of offences.
- 35. Protection of persons.
- 36. Representation of parties.
- 36A. Power to remove difficulties.
- 37. Protection of action taken under the Act.
- 38. Power to make rules.
- 39. Delegation of powers.
- 40. Power of Central Government to amend the Second and Third Schedules.

## SCHEDULES.

INDUSTRIAL DISPUTES ACT, 1947 (XIV OF 1947)<sup>1</sup>

*An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.*

[11th March, 1947.]

(As modified up to 30th November, 1956)

Whereas it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing:

It is hereby enacted as follows:—

## CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Industrial Disputes Act, 1947.

<sup>2</sup>[(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to industrial disputes concerning workmen employed under the Government of India.]

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, pp. 239-240, see also p. 1359, ante; for Report of Select Committee, see *ibid.*, 1947, Pt. V, pp. 33-35. This Act has been amended in the State of Madras by Madras Act 12 of 1949, and in Uttar Pradesh by U. P. Act 25 of 1951 (with effect from 26th June, 1951). The Act was also amended in Mysore in July, 1953 and in Saurashtra in December, 1953.

<sup>2</sup> Subs. by s. 2 of the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) (enforced from 29th August, 1956.)

(3) It shall come into force on the first day of April, 1947.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “appropriate Government” means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government \* \* \* or by a railway company [or concerning any such controlled industry as may be specified in this behalf by the Central Government] \* \* \* or in relation to an industrial dispute concerning [a banking or an insurance company, a mine, an oilfield], or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the “[State] Government;

\*[(aa) “average pay” means the average of the wages payable to a workman—

(i) in the case of monthly paid workman, in the three complete calendar months,

(ii) in the case of weekly paid workman, in the four complete weeks,

(iii) in the case of daily paid workman, in the twelve full working days, preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked;]

\*[(b) “award” means an interim or final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under section 10;]

<sup>10</sup>[(bb) “banking company” means a banking company as defined in section 5 of the Banking Companies Act, 1949 (X of 1949) having branches or other establishments in more than one <sup>11</sup>[State], and includes the <sup>12</sup>[State Bank of India and the Reserve Bank of India;]

(c) “Board” means a Board of Conciliation constituted under this Act;

(d) “conciliation officer” means a conciliation officer appointed under this Act;

(e) “conciliation proceeding” means any proceeding held by a conciliation officer or Board under this Act;

<sup>13</sup>[(ee) “controlled industry” means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;]

\*[(eee) “continuous service” means uninterrupted service, and includes service which may be interrupted merely on account of sickness or authorised leave or an

<sup>3</sup> Certain words omitted by the A.O. 1948.

<sup>4</sup> Ins. by s. 32 of Industries (Development and Regulation) Act, 1951 (65 of 1951).

<sup>5</sup> Certain words omitted by the A.O. 1950.

<sup>6</sup> Subs. by Industrial Disputes (Banking and Insurance Companies) Act, 1949 (54 of 1949), s. 3.

<sup>7</sup> Subs. by the A.O. 1950.

<sup>8</sup> Ins. by Industrial Disputes (Amendment) Act, 1953 (43 of 1953), s. 2.

<sup>9</sup> Subs. by s. 3 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>10</sup> Ins. by Industrial Disputes (Banking and Insurance Companies) Act, 1949 (54 of 1949), s. 3.

<sup>11</sup> Subs. by the A.O. 1950.

<sup>12</sup> Subs. by s. 3 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) for the words “Imperial Bank of India” (w.e.f. 29.8.56).

<sup>13</sup> Ins. by Industries (Development and Regulation) Act, 1951 (65 of 1951), s. 32.

accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;]

(f) "Court" means a Court of Inquiry constituted under this Act;

(g) "employer" means—

(i) in relation to an industry carried on by or under the authority of any department of <sup>14</sup>[the Central Government or a <sup>15</sup>[State] Government], the authority prescribed, in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

<sup>16</sup>\* \* \* \* \*

(i) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute:

<sup>16</sup>[Provided that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute; but in such a case, he shall disclose to the appropriate Government the nature and extent of the shares held by him in such company;]

(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

(k) "industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

<sup>17</sup>[(kk) "insurance company" means an insurance company as defined in section 2 of the Insurance Act, 1938 (IV of 1938), having branches or other establishments in more than one <sup>18</sup>[State];]

<sup>19</sup>[(kkz) 'Labour Court' means a Labour Court constituted under section 7;]

<sup>19a</sup>[(kkk) "lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched;

*Explanation.*—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose

<sup>14</sup> Subs. by the A.O. 1948.

<sup>15</sup> Cl. (h) rep. by the A.O. 1950.

<sup>16</sup> Ins. by Industrial Disputes (Amendment) Act, 1952 (18 of 1952), s. 2.

<sup>17</sup> Ins. by Industrial Disputes (Banking and Insurance Companies) Act, 1949 (54 of 1949), s. 3.

<sup>18</sup> Subs. by the A. O. 1950.

<sup>19</sup> Ins. by Industrial Disputes (Amendment) Act, 1953 (43 of 1953), s. 2.

<sup>19a</sup> Ins. by Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956), s. 3.



during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;]

(l) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him;

<sup>20</sup>[(ll) 'National Tribunal' means a National Industrial Tribunal constituted under section 7B];

(m) "prescribed" means prescribed by rules made under this Act;

(n) "public utility service" means—

- (i) any railway service;
- (ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;
- (iii) any postal, telegraph or telephone service;
- (iv) any industry which supplies power, light or water to the public;
- (v) any system of public conservancy or sanitation;

(vi) any industry specified in the Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time if in the opinion of the appropriate Government public emergency or public interest requires such extension;

(o) "railway company" means a railway company as defined in section 3 of the Indian Railways Act, 1890 (IX of 1890);

<sup>21</sup>[(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of super-annuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(c) termination of the service of a workman on the ground of continued ill-health;]

<sup>22</sup>[(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the appropriate Government and the conciliation officer];

<sup>20</sup> Ins. by s. 3 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>21</sup> Ins. by s. 2 of Industrial Disputes (Amendment) Act, 1953 (43 of 1953).

<sup>22</sup> Subs. by s. 3 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) (enforced from 7th October, 1956).

(q) "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(r) "Tribunal" means an Industrial Tribunal constituted <sup>23</sup>[under Section 7A];

<sup>24</sup>[(rr) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any travelling concession;

but does not include—

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;]

<sup>25</sup>[(s) 'workman' means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Army Act, 1950 (XLVI of 1950) or the Air Force Act, 1950 (XLV of 1950), or the Navy (Discipline) Act, 1934 (XXXIV of 1934); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

## CHAPTER II—AUTHORITIES UNDER THIS ACT

**3. Works Committee.**—(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen

<sup>23</sup> Subs. for the words "under this Act" by s. 3 of Industrial Disputes (Amendment and Miscellaneous Provision) Act, 1956 (36 of 1956).

<sup>24</sup> Ins. by Industrial Disputes (Amendment) Act, 1953 (43 of 1953), s. 2.

<sup>25</sup> Subs. by s. 3 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) (enforced from 29th August, 1956).

engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (XVI of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

**4. Conciliation officers.**—(1) The appropriate Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

**5. Boards of Conciliation.**—(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

**6. Courts of Inquiry.**—(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

**26[7. Labour Courts.**—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

(a) he has held any judicial office in India for not less than seven years; or

(b) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

**7A. Tribunals.**—(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule.

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless—

(a) he is, or has been, a Judge of a High Court; or

(b) he has held the office of the chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950) or of any Tribunal, for a period of not less than two years.

(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

**7B. National Tribunals.**—(1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless—

(a) he is, or has been, a Judge of a High Court; or

(b) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950) for a period of not less than two years.

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

**7C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals.**—No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if—

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years.]

<sup>26</sup> Sections 7, 7A, 7B and 7C substituted for the original section 7 by s. 4 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>27</sup>[**8. Filling of vacancies.**—If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the chairman or any other member of a Board or Court, then, in the case of a National Tribunal, the Central Government and in any other case, the appropriate Government, shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued before the Labour Court, Tribunal, National Tribunal, Board or Court, as the case may be, from the stage at which the vacancy is filled.]

<sup>28</sup>[**9. Finality of orders constituting Boards, etc.**—(1) No order of the appropriate Government or of the Central Government appointing any person as the chairman or any other member of a Board or Court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner; and no act or proceeding before any Board or Court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or Court.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12 or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the chairman and all the other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the chairman) of the Board during any stage of the proceeding.]

#### <sup>29</sup>[CHAPTER IIA—NOTICE OF CHANGE

**9A. Notice of change.**—No employer who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement, award or decision of the Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950); or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

**9B. Power of Government to exempt.**—Where the appropriate Government is of opinion that the application of the provisions of section 9A to any class of industrial establishments or to any class of workmen employed in any industrial

<sup>27</sup> Subs. for original section by s. 5, of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>28</sup> Subs. for original section by s. 5, *ibid.*

<sup>29</sup> This chapter inserted by s. 6, *ibid.*

establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification in the Official Gazette, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workmen employed in any industrial establishment.]

### CHAPTER III—REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS

**10. Reference of disputes to Boards, Courts or Tribunals.**—(1) <sup>30</sup>[Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,—

- (a) refer the dispute to a Board for promoting a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court of Inquiry; or
- <sup>31</sup>[(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or
- (d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c):

<sup>32</sup>[Provided further that] where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

<sup>33</sup>[(1A) Where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a National Tribunal for adjudication.]

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, <sup>34</sup>[Labour Court, Tribunal or National Tribunal], the appropriate Gov-

<sup>30</sup> Subs. by s. 3 of Industrial Disputes (Amendment) Act, 1952 (18 of 1952).

<sup>31</sup> Subs. for the original cl. (c) by s. 7 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>32</sup> Subs. for the words "Provided that" by s. 7, *ibid.*

<sup>33</sup> Sub-section (1A) inserted by s. 7, *ibid.*

<sup>34</sup> Subs. for the words "or Tribunal" by s. 7, *ibid.*

ernment, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

(3) Where an industrial dispute has been referred to a Board, <sup>34</sup>[Labour Court, Tribunal or National Tribunal] under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

<sup>35</sup>[(4) Where in an order referring an industrial dispute to <sup>36</sup>[a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, <sup>37</sup>[the Labour Court, or the Tribunal or the National Tribunal, as the case may be] shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a <sup>38</sup>[Labour Court, Tribunal or National Tribunal] under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments.]

<sup>39</sup>[(6) Where any reference has been made under sub-section (1A) to a National Tribunal, then, notwithstanding anything contained in this Act, no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly,—

(a) if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, in so far as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and

(b) it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

(7) Where any industrial dispute, in relation to which the Central Government is not the appropriate Government, is referred to a National Tribunal, then, notwithstanding anything contained in this Act, any reference in section 15, section 17, section 19, section 33A, section 33B and section 36A to the appropriate Government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the appropriate Government in relation to that dispute shall mean a reference to the State Government.]

<sup>40</sup>[10A. **Voluntary reference of disputes to arbitration.**—(1) Where any industrial dispute exists or is apprehended and the employer and the workmen

<sup>35</sup> Ins. by s. 3 of Industrial Disputes (Amendment) Act, 1952 (18 of 1952).

<sup>36</sup> Subs. for the words "a Tribunal" by s. 7 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>37</sup> Subs. for the words "the Tribunal" by s. 7, *ibid.*,

<sup>38</sup> Subs. for the word "Tribunal" by s. 7, *ibid.*

<sup>39</sup> Sub-sections 6 and 7 inserted by s. 7, *ibid.*

<sup>40</sup> Section 10A inserted by s. 8, *ibid.*

agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(3) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer and the appropriate Government shall, within fourteen days from the date of the receipt of such copy, publish the same in the Official Gazette.

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

(5) Nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.]

#### CHAPTER IV—PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

**11. Procedure and powers of conciliation officers, Boards, Courts and Tribunals.**—<sup>41</sup>[(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.]

(2) A conciliation officer or a member of a Board, <sup>42</sup>[or Court or the presiding officer of a Labour Court, Tribunal or National Tribunal] may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every Board, Court, <sup>43</sup>[Labour Court, Tribunal and National Tribunal] shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses;
- (d) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a Board, Court, <sup>44</sup>[Labour Court, Tribunal or National Tribunal], shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (XLV of 1860).

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute, <sup>45</sup>[or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (V of 1908) in respect of compelling the production of documents.]

<sup>41</sup> Subs. by s. 9. of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>42</sup> Subs. for the words "Court or Tribunal" by s. 9, *ibid.*

<sup>43</sup> Subs. for the words "and Tribunal" by s. 9, *ibid.*

<sup>44</sup> Subs. for the words "or Tribunal" by s. 9, *ibid.*

<sup>45</sup> Added by s. 9, *ibid* (enforced from 17th September, 1956).



<sup>46</sup>[(5) A Court, Labour Court, Tribunal or National Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.]

<sup>46</sup>[(6) All conciliation officers, members of a Board or Court and the presiding officers of a Labour Court, Tribunal or National Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, (XLV of 1860).]

<sup>46</sup>[(7) Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.]

<sup>47</sup>[(8) Every <sup>47a</sup>[Labour Court, Tribunal or National Tribunal] shall be deemed to be a Civil Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).]

**12. Duties of conciliation officers.**—(1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given shall, hold conciliation proceedings in the prescribed manner.

(2) The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, <sup>48</sup>[Labour Court, Tribunal or National Tribunal] it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

<sup>46</sup> Sub-sections 5, 6 and 7 substituted for original sub-sections by s. 9 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>47</sup> Added by Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950), s. 34 and Sch.

<sup>47a</sup> Subs. for the word "Tribunal" by s. 9 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>48</sup> Subs. for the words "or Tribunal" by s. 10, *ibid.*

<sup>49</sup>[Provided that the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.]

**13. Duties of Boards.**—(1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course, of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a <sup>50</sup>[Labour Court, Tribunal or National Tribunal] under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date <sup>51</sup>[on which the dispute was referred to it] or within such shorter period as may be fixed by the appropriate Government:

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

**14. Duties of Courts.**—A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

<sup>52</sup>[**15. Duties of Labour Courts, Tribunals and National Tribunals.**—Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as it is practicable on the conclusion thereof, submit its award to the appropriate Government.]

<sup>52</sup>[**16. Form of report or award.**—(1) The report of a Board or Court shall be in writing and shall be signed by all the members of the Board or Court, as the case may be:

Provided that nothing in this section shall be deemed to prevent any member of the Board or Court from recording any minute of dissent from a report or from any recommendation made therein.

<sup>49</sup> The Proviso was added by s. 10 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) (enforced from 17th September, 1956).

<sup>50</sup> Subs. for the word "Tribunal" by s. 11, *ibid.*

<sup>51</sup> Subs. by s. 6 of Industrial Disputes (Amendment and Temporary Provisions) Act 1951 (40 of 1951).

<sup>52</sup> Sections 15 and 16 substituted for original sections by s. 12 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

(2) The award of a Labour Court or Tribunal or National Tribunal shall be in writing and shall be signed by its presiding officer.]

<sup>53</sup>[17. **Publication of reports and awards.**—(1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

(2) Subject to the provisions of section 17A, the award published under sub-section (1) shall be final and shall not be called in question by any court in any manner whatsoever.]

<sup>53</sup>[17A. **Commencement of the award.**—(1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that—

(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or, as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be.]

**18. Persons on whom settlements and awards are binding.**—<sup>54</sup>[(1) A settlement arrived at by agreement between the employer and workmen otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) An arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]

<sup>53</sup> Subs. by s. 12 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>54</sup> Section 18 re-numbered as sub-section (3) and sub-sections (1) and (2) inserted by s. 13, *ibid* (enforced from 7th October, 1956).

<sup>54</sup>[(3)] A settlement arrived at in the course of conciliation proceedings under this Act or <sup>55</sup>[an award <sup>56</sup>[of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, <sup>57</sup>[Labour Court, Tribunal or National Tribunal] as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

**19. Period of operation of settlements and awards.**—(1) A settlement \*\*\* \* \* \* shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months <sup>58</sup>[from the date on which the memorandum of settlement is signed by the parties to the dispute], and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

<sup>59</sup>[(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year <sup>61</sup>[from the date on which the award becomes enforceable under section 17A;]

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit.

Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it <sup>61a</sup>[to a Labour Court, if the award was that of a Labour Court or to a Tribunal, if the award was that of a Tribunal or of a National Tribunal] for decision whether the period of operation should not, by reason of such change, be shortened and the

<sup>55</sup> Subs. by s. 34 and Sch. of Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950).

<sup>56</sup> Ins. by s. 13 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>57</sup> Subs. for the words "or Tribunal" by s. 13, *ibid*.

<sup>58</sup> The words "arrived at in the course of a conciliation proceeding under this Act" omitted by s. 14, *ibid* (enforced from 7th October, 1956).

<sup>59</sup> Ins. by s. 14, *ibid* (enforced from 7th October, 1956).

<sup>60</sup> Subs. by s. 34 and Sch. of Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950).

<sup>61</sup> Ins. by s. 14 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) (enforced from 17th September, 1956).

<sup>61a</sup> Subs. for the words "to a Tribunal" by s. 14, *ibid*.

decision of <sup>62</sup>[the Labour Court or the Tribunal, as the case may be] on such reference shall <sup>63</sup> \* \* \* \* be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(7) <sup>64</sup> \* \* \*

**20. Commencement and conclusion of proceedings.**—(1) Conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be; or

(c) when a reference is made to a Court, <sup>65</sup>[Labour Court, Tribunal or National Tribunal] under section 10 during the pendency of conciliation proceedings.

(3) Proceedings <sup>66</sup>[before an arbitrator under section 10A or before a Labour Court, Tribunal or National Tribunal] shall be deemed to have commenced on the date of the <sup>67</sup>[reference of the dispute for arbitration or adjudication, as the case may be] and such proceedings shall be deemed to have concluded <sup>68</sup>[on the date on which the award becomes enforceable under section 17A].

**21. Certain matters to be kept confidential.**—There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court, <sup>69</sup>[Labour Court, Tribunal, National Tribunal or an arbitrator] in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court, <sup>70</sup>[Labour Court, Tribunal, National Tribunal or arbitrator] if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court, <sup>71</sup>[Labour Court, Tribunal, National Tribunal or arbitrator] as the case may be, that such information shall be treated as confidential: nor shall such conciliation officer or any individual member of the Board, <sup>72</sup>[or Court or the presiding officer of the Labour Court, Tribunal or National Tribunal or the arbitrator] or any person present at or concerned in the

<sup>62</sup> Subs. for the words "the Tribunal" by s. 14, of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>63</sup> The words "subject to the provision for appeal" omitted by s. 14, *ibid.*

<sup>64</sup> Sub-section (7) omitted by s. 14, *ibid.* (enforced from 17th September, 1956).

<sup>65</sup> Subs. for the words "or Tribunal" by s. 15, *ibid.*

<sup>66</sup> Subs. for the words "before a Tribunal" by s. 15, *ibid.*

<sup>67</sup> Subs. for the words "reference of dispute for adjudication" by s. 15, *ibid.*

<sup>68</sup> Subs. by s. 4 of Industrial Disputes (Amendment) Act, 1952 (18 of 1952).

<sup>69</sup> Subs. for the words "or Tribunal" by s. 16, of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>70</sup> Subs. for the words "or Tribunal" by s. 16, *ibid.*

<sup>71</sup> Subs. for the words "Court or Tribunal" by s. 16, *ibid.*

proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code (XLV of 1860).

#### CHAPTER V—STRIKES AND LOCK-OUTS

**22. Prohibition of strikes and lock-outs.**—(1) No person employed in a public utility service shall go on strike in breach of contract—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

**23. General prohibition of strikes and lock-outs.**—No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before <sup>72</sup>[a Labour Court, Tribunal or National Tribunal] and two months after the conclusion of such proceedings; or

(c) during any period in which a settlement or award is in operation, in respect of any matters covered by the settlement or award.

**24. Illegal strikes and lock-outs.**—(1) A strike or a lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, <sup>73</sup>[Labour Court, Tribunal or National Tribunal], the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

**25. Prohibition of financial aid to illegal strikes and lock-outs.**—No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

#### <sup>74</sup>[CHAPTER VA—LAY-OFF AND RETRENCHMENT

**25A. Application of sections 25C to 25E.**—(1) Sections 25C to 25E inclusive shall not apply—

(a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month; or

(b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

<sup>75</sup>[*Explanation.*—In this section and in sections 25C, 25D and 25E, 'industrial establishment' means—

(i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948); or

(ii) a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (XXXV of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (LXIX of 1951).]

**25B. Definition of one year of continuous service.**—For the purposes of sections 25C and 25F, a workman who, during a period of twelve calendar months, has actually worked in an industry for not less than two hundred and forty days shall be deemed to have completed one year of continuous service in the industry.

<sup>72</sup> Subs. for the words "a Tribunal" by s. 17 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>73</sup> Subs. for the words "or Tribunal" by s. 18, *ibid.*

<sup>74</sup> This Chapter ins. by Industrial Disputes (Amendment) Act, 1953 (43 of 1953), s. 3.

<sup>75</sup> Subs. by Industrial Disputes Amendment Act, 1954 (48 of 1954), s. 2 (with effect from 1st April, 1954).

**Explanation.**—In computing the number of days on which a workman has actually worked in an industry, the days on which—

(a) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), or under this Act or under any other law applicable to the industrial establishment, the largest number of days during which he has been so laid-off being taken into account for the purposes of this clause,

(b) he has been on leave with full wages, earned in the previous year, and

(c) in the case of a female, she has been on maternity leave; so however that the total period of such maternity leave shall not exceed twelve weeks, shall be included.

**25C. Right of workmen laid-off for compensation.**—<sup>76</sup>[(1)] Whenever a workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off:

<sup>77</sup>[Provided that the compensation payable to a workman during any period of twelve months shall not be for more than forty-five days.]

<sup>78</sup>[(2)] Notwithstanding anything contained in the proviso to sub-section (1), if during any period of twelve months, a workman is laid-off for more than forty-five days, whether continuously or intermittently, and the lay-off after the expiry of the first forty-five days comprises continuous periods of one week or more, the workman shall, unless there is any agreement to the contrary between him and the employer, be paid for all the days comprised in every such subsequent period of lay-off for one week or more compensation at the rate specified in sub-section (1):

Provided that it shall be lawful for the employer in any case falling within this sub-section to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty-five days of lay-off and when he does so, any compensation paid to the workman for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.]

**Explanation.**—“*Badli* workman” means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.

**25D. Duty of an employer to maintain muster rolls of workmen.**—Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster roll, and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours.

**25E. Workmen not entitled to compensation in certain cases.**—No compensation shall be paid to a workman who has been laid-off—

<sup>76</sup> Section 25C re-numbered as sub-section (1) by s. 2 of Industrial Disputes (Amendment) Act, 1956 (41 of 1956).

<sup>77</sup> This Proviso was submitted for previous provisos, by s. 2, *ibid* (w.e.f. 4-9-56).

<sup>78</sup> Sub-section (2) inserted by s. 2, *ibid* (enforced from 4th September, 1956).



(i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;

(ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

(iii) if such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.

**25F. Conditions precedent to retrenchment of workmen.**—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government.

**79[25FF. Special provision relating to workmen employed in undertakings which are transferred.**—Notwithstanding anything contained in section 25F, no workman shall be entitled to compensation under that section by reason merely of the fact that there has been a change of employers in any case where the ownership or management of the undertaking in which he is employed is transferred, whether by agreement or by operation of law, from one employer to another:

Provided that—

(a) the service of the workman has not been interrupted by reason of the transfer;

(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

(c) the employer to whom the ownership or management of the undertaking is so transferred is, under the terms of the transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.]

**25G. Procedure for retrenchment.**—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

**25H. Re-employment of retrenched workmen.**—Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he

<sup>79</sup> This section inserted by Industrial Disputes (Amendment) Act, 1956 (41 of 1956), s. 3 (enforced from 4th September, 1956).

shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen to offer themselves for re-employment, and the retrenched workmen who offer themselves for re-employment shall have preference over other persons.

25I. \* \* \* \* \*

**25J. Effect of laws inconsistent with this Chapter.**—(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946):

Provided that nothing contained in this Act shall have effect to derogate from any right which a workman has under <sup>81</sup>[the Minimum Wages Act, 1948 (XI of 1948) or any notification or order issued thereunder or] any award for the time being in operation or any contract with the employer.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.]

#### CHAPTER VI—PENALTIES

**26. Penalty for illegal strikes and lock-outs.**—(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

**27. Penalty for instigation, etc.**—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**28. Penalty for giving financial aid to illegal strikes and lock-outs.**—Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

<sup>82</sup>[**29. Penalty for breach of settlement or award.**—Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.]

<sup>80</sup> Section 25I deleted by s. 19 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>81</sup> Ins. by s. 3 of Industrial Disputes (Amendment) Act, 1954 (48 of 1954) (with effect from 1st April, 1954).

<sup>82</sup> Subs. by s. 20 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956) (with effect from 17th September, 1956).

**30. Penalty for disclosing confidential information.**—Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**31. Penalty for other offences.**—(1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

#### CHAPTER VII—MISCELLANEOUS

**32. Offence by companies, etc.**—Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

<sup>83</sup>[**33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.**—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute,—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

<sup>83</sup> Subs. by s. 21 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

*Explanation.*—For the purposes of this sub-section, a 'protected workman', in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit.]

<sup>84</sup>[33A. **Special provision for adjudication as to whether conditions of service, etc., changed during pendency of proceedings.**—Where an employer contravenes the provisions of section 33 during the pendency of proceedings before a <sup>85</sup>[Labour Court, Tribunal or National Tribunal], any employee aggrieved by such contravention, may make a complaint in writing, in the prescribed manner to such <sup>85</sup>[Labour Court, Tribunal or National Tribunal] and on receipt of such complaint that <sup>85</sup>[Labour Court, Tribunal or National Tribunal] shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit its award to the appropriate Government and the provisions of this Act shall apply accordingly.]

<sup>86</sup>[33B. **Power to transfer certain proceedings.**—(1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred.

Provided that where a proceeding under section 33 or section 33A is pending before a Tribunal or National Tribunal, the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of sub-section (1), any Tribunal or National Tribunal, if so authorised by the appropriate Government may transfer any proceeding under section 33 or section 33A pending before it to any one of the Labour Courts specified for the disposal of such proceedings by the appropriate Government by notification in the official Gazette and the Labour Court to which the proceeding is so transferred shall dispose of the same.]

<sup>84</sup> Ins. by s. 34 and Sch. of Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950).

<sup>85</sup> Subs. for the word "Tribunal" by s. 22 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>86</sup> Sections 33B and 33C inserted by s. 23, *ibid*.

<sup>86</sup>[33C. **Recovery of money due from an employer.**—(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

(2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may be made under this Act, be determined by such Labour Court as may be specified in this behalf by the appropriate Government, and the amount so determined may be recovered as provided for in sub-section (1).

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case.]

**34. Cognizance of offences.**—(1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

**35. Protection of persons.**—(1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

<sup>87</sup>[36. **Representation of parties.**—(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of a registered trade union of which he is a member;

(b) an officer of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by an officer of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed.

<sup>87</sup> Subs. by s. 34 and Sch. of Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950).

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) an officer of an association of employers of which he is a member;

(b) an officer of a federation of associations of employers to which the association referred to in clause (a) is affiliated;

(c) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding <sup>88</sup>[before a Labour Court, Tribunal or National Tribunal], a party to dispute may be represented by a legal practitioner with the consent of the other parties to the proceedings, and <sup>89</sup>[with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be.]

<sup>90</sup>[36A. Power to remove difficulties.—(1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

(2) The Labour Court, Tribunal or National Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties.]

37. Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

38. Power to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and procedure of conciliation officers, Boards, Courts, <sup>91</sup>[Labour Courts, Tribunals and National Tribunals] including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

<sup>92</sup>[(aa) the form of arbitration agreement, the manner in which it may be signed by the parties, the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;]

<sup>93</sup>[(aaa) the appointment of assessors in proceedings under this Act;]

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

<sup>88</sup> Subs. for the words "before a Tribunal" by s. 24 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>89</sup> Subs. for the words "with the leave of the Tribunal" by s. 24, *ibid.*

<sup>90</sup> Ins. by s. 25, *ibid.*

<sup>91</sup> Subs. for the words "and Tribunals" by s. 26, *ibid.*

<sup>92</sup> Ins. by s. 26, *ibid.*

(c) the allowances admissible to members of Courts, <sup>93</sup>[and Boards and presiding officers of Labour Courts, Tribunals and National Tribunals] and to assessors and witnesses;

(d) the ministerial establishment which may be allotted to a Court, Board, <sup>94</sup>[Labour Court, Tribunal or National Tribunal] and the salaries and allowances payable to members of such establishments;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court, <sup>95</sup>[Labour Court, Tribunal or National Tribunal];

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

<sup>96</sup>[(4) All rules made under this section shall, as soon as possible after they are made, be laid before the State Legislature or, where the appropriate Government is the Central Government, before both Houses of Parliament.]

<sup>97</sup>[39. **Delegation of powers.**—The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

<sup>98</sup>[40. **Power of Central Government to amend the Second and Third Schedules.**—The Central Government may, by notification in the Official Gazette, add to, alter or amend the Second Schedule or the Third Schedule and on any such notification being issued, the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly and every such notification shall, as soon as possible, after it is issued be laid before both Houses of Parliament.]

<sup>99</sup>[THE FIRST SCHEDULE—[See section 2(n) (vi)]]

*Industries which may be declared to be public utility services under sub-clause (vi) of clause (n) of section 2.*

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Banking.
3. Cement.

<sup>93</sup> Subs. for the words "Boards and Tribunals" by s. 26 of Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956).

<sup>94</sup> Subs. for the words "or Tribunal" by s. 26, *ibid*.

<sup>95</sup> Ins. by s. 26, *ibid*.

<sup>96</sup> Subs. by s. 27, *ibid* (enforced from 17th September, 1956).

<sup>97</sup> Ins. by s. 28, *ibid*.

<sup>98</sup> First, Second, Third and Fourth Schedules substituted for the existing Schedule by s. 29, *ibid*.

4. Coal.
5. Cotton textiles.
6. Foodstuffs.
7. Iron and steel.
8. Defence establishments.
9. Service in hospitals and dispensaries.
10. Fire Brigade service.

THE SECOND SCHEDULE—(See section 7)

*Matters within the jurisdiction of Labour Courts*

1. The propriety or legality of an order passed by an employer under the standing orders;
2. The application and interpretation of standing orders;
3. Discharge or dismissal of workmen, including re-instatement of, or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule.

THE THIRD SCHEDULE—(See section 7A)

*Matters within the jurisdiction of Industrial Tribunals*

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed.

THE FOURTH SCHEDULE—(See section 9A)

*Conditions of service for change of which notice is to be given*

1. Wages including the period and mode of payment;
2. Contribution paid, or payable by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;
3. Compensatory and other allowances;
4. Hours of work and rest intervals;
5. Leave with wages and holidays;
6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Withdrawal of any customary concession or privilege or change in usage;
9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders;
10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen;
11. Any increases or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not due to forced matters.]



# **INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947**

## **Arrangement of Paragraphs**

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INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947<sup>1</sup>

In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947

PRELIMINARY

1. **Title and application.**—(1) These rules may be called the Industrial Disputes (Central) Rules, 1947.

<sup>2</sup>[(2) They extend to Part C States in relation to all industrial disputes, and to Part A and B States in relation only to an industrial dispute concerning:—

(a) any industry carried on by or under the authority of the Central Government or by a railway company; or

(b) a banking or an insurance company, a mine, an oil-field, or a major port.]

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context:—

(a) "Act" means the Industrial Disputes Act, 1947;

(b) "Chairman" means the Chairman of a Board, Court or Tribunal or, if the Court or Tribunal consists of one person only, such person;

(c) "Committee" means a Works Committee constituted under sub-section (1) of section 3 of the Act;

(d) "Form" means a form in the Schedule to these rules;

(e) "Section" means a section of the Act;

(f) In relation to an industrial dispute in a Part C State, for which the appropriate Government is the State Government, reference to the Central Government or the Secretary to the Government of India in the Ministry of Labour or the Ministry of Labour of the Government of India shall be construed as reference to the Chief Commissioner of the State, and reference to the Chief Labour Commissioner (Central), Regional Labour Commissioner (Central) and Conciliation Officer (Central) shall be construed as reference to the appropriate authority appointed in that behalf by the Chief Commissioner of the State.

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. LR1(4) dated the 9th August, 1947. Draft of the Industrial Disputes (Central) Rules, 1956 containing 80 clauses have been published in October, 1956.

<sup>2</sup> Substituted by Notification No. S.R.O. 1332 dated the 21st August, 1951.

<sup>3</sup>[(g) With reference to clause (g) of section 2 of the Act it is hereby prescribed that, in relation to an industry carried on by or under the authority of a Department of the Central Government, the officer in charge of the industrial establishment shall be the 'employer' in respect of that establishment.]

**PART I—PROCEDURE FOR REFERENCE OF INDUSTRIAL DISPUTES TO BOARDS OF CONCILIATION, COURTS OF INQUIRY OR INDUSTRIAL TRIBUNALS**

**3. Application.**—An application for the reference of an industrial dispute to a Board, Court or Tribunal shall be made in Form A and shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of India in the Ministry of Labour. The application shall be accompanied by a statement setting forth—

- (a) the parties to the dispute;
- (b) the specific matters to dispute;
- (c) the total number of workmen employed in the undertaking affected;
- (d) an estimate of the number of workmen affected or likely to be affected by the dispute; and
- (e) the efforts made by the parties themselves to adjust the dispute.

**4. Attestation of application.**—The application and the statement accompanying it shall be signed—

(a) in the case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the Corporation;

(b) in the case of workmen, either by the President and Secretary of a registered trade union of the workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

**5. Notification of appointment of Board, Court or Tribunal.**—The appointment of a Board, Court or Tribunal together with the names of persons constituting the Board, Court or Tribunal shall be notified in the official Gazette.

**4[5A. Qualification of members of Industrial Tribunals.**—Where an Industrial Tribunal consists of two or more members every such member (other than the Chairman) shall be a person who—

(1) is qualified for appointment as the Chairman of the Tribunal under sub-section (3) of section 7 of the said Act; or

(2) is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949); or

(3) has been a presiding officer for not less than three years of any court or tribunal set up under any law providing for the settlement or adjudication of industrial disputes; or

(4) in the opinion of the Central Government—

(a) has had experience of problems relating to labour or industry for not less than five years; or

(b) has special knowledge of economics, finance, banking or insurance.]

**6. Notice to parties to nominate representatives.**—(1) If the Central Government proposes to appoint a Board, it shall send a notice in Form B to the parties requiring them to nominate within a reasonable time persons to represent them on the Board.

(2) The notice to the employer shall be sent to the employer personally, or if the employer is an incorporated company or a body corporate, to the agent, manager or other principal officer of such company or body.

(3) The notice to the workmen shall be sent—

(a) in the case of workmen who are members of a registered trade union, to the President or Secretary of the trade union; and

(b) in the case of workmen who are not members of a registered trade union, to any one workman who has attested the application made under rule 3; and in this case a copy of the notice shall also be sent to the employer who shall display copies thereof on notice boards in a conspicuous manner at the main entrance to the premises of the establishment.

<sup>3</sup> Inserted by Notification No. S.R.O. 702 dated the 10th April, 1952.

<sup>4</sup> Inserted by Notification No. S.R.O. 1702 dated the 3rd November, 1951.

**PART II—POWERS, PROCEDURE AND DUTIES OF CONCILIATION OFFICERS, BOARDS, COURTS AND TRIBUNALS**

**4a[7. Conciliation proceedings.**—The conciliation officer, on receipt of information about an existing or apprehended industrial dispute, may or, where the dispute relates to a public utility service, on receipt of a notice of a strike or lock-out given under rule 52 or rule 53, shall forthwith, arrange to interview both the employer and the workmen concerned with the dispute at such places and at such times as he may deem fit and shall endeavour to bring about a settlement of the dispute in question.]

8. The conciliation officer may hold a meeting of the representatives of both parties jointly or of each party separately.

9. The conciliation officer shall conduct the proceedings expeditiously and in such manner as he may deem fit.

10. **Place and time of hearing.**—The sittings of a Board, Court or Tribunal shall be held at such times and places as the Chairman may fix, and the Chairman shall inform the parties of the same in such manner as he thinks fit:

Provided as far as possible the Board, Court or Tribunal shall sit at or near the place where the dispute or matter arose which is before it.

11. **Quorum for Boards and Courts.**—The quorum necessary to constitute a sitting of a Board or Court shall be as follows:—

	Quorum.			
(i) in the case of a Board—				
where the number of members is 3	...	...	...	2
where the number of members is 5	...	...	...	3
(ii) in the case of a Court—				
where the number of members is not more than 2		...	...	1
where the number of members is more than 2 but less than 5			...	2
where the number of members is 5 or more			...	3

12.5\* \* \* \*

13. **Administration of oath.**—Any member of a Board, Court or Tribunal may administer an oath.

14. **Evidence.**—A Board, Court or Tribunal may accept, admit or call for evidence at any stage of the proceedings before it and in such manner as it may think fit.

15. **Summons.**—A summons issued by a Board, Court or Tribunal shall be in Form C and may require any person to produce before it any books, papers or other documents and things in his possession or under his control in any way relating to the matter under investigation or adjudication by the Board, Court or Tribunal which the Board, Court or Tribunal thinks necessary for the purpose of such investigation or adjudication.

16. **Service of summons or notice.**—Any notice, summons, process or order issued by a Board, Court or Tribunal may be served either personally or by registered post.

**[16A. Description of parties in certain cases.**—Where in any proceeding before a Board, Court or Tribunal, there are numerous persons arrayed on any side, such persons shall be described as follows:

(1) all such persons as are members of any union or association shall be described by the name of such union or association; and

(2) all such persons as are not members of any union or association shall be described in such manner as the Board, Court or Tribunal, as the case may be, may determine.

**16B. Manner of service in the case of numerous persons as parties to a dispute.**—

(1) Where there are numerous persons as parties to any proceeding before a Board, Court or Tribunal and such persons are members of any union or association, the service of notice on the Secretary, or where there is no Secretary, on the principal officer, of the union or association shall be deemed to be service on such persons.

(2) Where there are numerous persons as parties to any proceeding before a Board, Court or Tribunal and such persons are not members of any union or association, the Board, Court or Tribunal, as the case may be, shall, where personal service is not practicable, cause the service of any notice to be made by affixing the same to a notice board at or near the main entrance of the establishment concerned.]

<sup>4a</sup> Subs. by Notification No. S.R.O. 3274 dated the 15th October, 1954.

<sup>5</sup> Deleted by Notification No. LR-1(97) dated the 6th December, 1949.

<sup>6</sup> Inserted by Notification No. S.R.O. 40 dated the 24th November, 1954.

**17. Procedure at the first sitting.**—At the first sitting of a Board, Court or Tribunal, the Chairman shall call upon the parties in such order as he may think fit to state their case.

**18. Information to be kept confidential.**—All books, papers and other documents or things produced before a Board, Court or Tribunal whether voluntarily or in pursuance of a summons may be inspected by the Board, Court or Tribunal and also by such parties as the Board, Court or Tribunal allows; but the information obtained therefrom shall not, except as provided in the Act, be made public; and such parts of the books, papers, documents or things as in the opinion of the Board, Court or Tribunal do not relate to the matters at issue may be sealed up.

**19. Board, Court or Tribunal may proceed ex-parte.**—If without good cause shown, any party to proceedings before a Board, Court or Tribunal fails to attend or to be represented, the Board, Court or Tribunal may proceed as if he had duly attended or had been represented.

**20. Power of entry and inspection.**—A Board, Court or Tribunal or any member thereof or any other person authorised in writing by a Board, Court or Tribunal in this behalf may, for the purposes of any investigation, enquiry or adjudication entrusted to the Board, Court or Tribunal under the Act, at any time between the hours of sunrise and sunset, and in the case of a person authorised in writing by a Board, Court or Tribunal after he has given reasonable notice, enter any building, factory, workshop or other place or premises whatsoever, and inspect the same or any work, machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to the subject-matter of the investigation, enquiry or adjudication.

**21. Power of Boards, Courts and Tribunals.**—In addition to the powers conferred by sub-section (3) of section 11 of the Act, Boards, Courts and Tribunals shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) granting adjournment;
- (c) reception of evidence taken on affidavit;

and the Board, Court or Tribunal may summon and examine *suo moto* any person whose evidence appears to it to be material and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

**21-A.\*** \* \* \*

**\*[21-B. Fees for copies of awards or other documents of Tribunal.**—(1) Fees for making a copy of an award of a Tribunal or any document filed in any proceeding before a Tribunal be charged as follows:—

- (a) for the first 200 words or less, 12 annas.
- (b) for every additional 100 words or fraction thereof, 6 annas.

(2) For certifying a copy of any such award or document, a fee of Re. 1 shall be payable.

(3) Copying and certifying fees shall be payable in cash in advance.

(4) Where a party applies for immediate delivery of a copy of any such award or document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.]

**22. Decision by majority.**—All questions arising for decision at any meeting of a Board, Court or Tribunal, save where the Court or Tribunal consists of one person, shall be decided by a majority of the votes of the members thereof (including the Chairman) present at the meeting. In the event of an equality of votes the Chairman shall also have a casting vote.

**23. Correction of errors.**—The Tribunal may correct any clerical mistake or error arising from an accidental slip or omission in any award it issues.

**24. Right of representatives.**—The representatives of the parties, appearing before a Board, Court or Tribunal, shall have the right of examination, cross-examination and re-examination and of addressing the Board, Court or Tribunal when an evidence has been called.

**25. Proceedings before a Board.**—The proceedings before a Board shall be held in public:

Provided that the Board may at any stage direct that any witness shall be examined or its proceedings shall be held *in camera*.

\* Deleted by Notification No. S. R. O. 469 dated the 7th March, 1952.

\* Inserted by Notification No. S. R. O. 139 dated the 18th January, 1952.

**PART III—REMUNERATION OF MEMBERS OF BOARDS, COURTS AND TRIBUNALS,  
ASSESSORS AND WITNESSES AND ESTABLISHMENT**

**26. Travelling allowance.**—A member of a Board, Court or Tribunal, if a non-official, shall be entitled to draw travelling allowance and halting allowance for any journey performed by him in connection with his duties as such member at the rates admissible and subject to the conditions applicable to a Government servant of the first grade under the Supplementary Rules issued by the Central Government.

**27. Fees.**—The Chairman and members of a Board, Court or Tribunal and the assessors appointed to assist a Court or Tribunal shall be granted such fees as may be sanctioned by the Central Government in each case.

**28. Expenses of witnesses.**—Every person who is summoned and duly attends as a witness before a Board, Court or Tribunal shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil courts in the State where the investigation, enquiry or adjudication is being conducted.

**29. Establishment.**—The Central Government may appoint a Secretary to the Board, Court or Tribunal and such other staff as it may think necessary and may fix the salaries and allowances payable to them.

**PART IV—REPRESENTATION OF PARTIES**

<sup>9</sup>[**30. Form of authority under section 36.**—The authority in favour of a person to represent a workman or an employer in any proceeding under the Act shall be in Form CC.]

**31. Parties bound by acts of representatives.**—A party appearing by a representative shall be bound by the acts of that representative.

**PART V—WORKS COMMITTEES.**

**32. Constitution.**—Any employer to whom an order made under sub-section (1) of section 3 relates shall forthwith proceed to constitute a Works Committee in the manner prescribed in this Part.

**33. Number of members.**—The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, group and classes of workmen engaged in, and to the sections, shops or departments of the establishment:

Provided that the total number of members shall not exceed twenty:

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employer.

**34. Representatives of employer.**—Subject to the provisions of these rules, the representatives of the employer shall be nominated by the employer and shall as far as possible, be officials in direct touch with or associated with the working of the establishment.

**35. Consultation with trade unions.**—Where any workmen of an establishment are members of a registered trade union, the employer shall ask the union to inform him in writing—

(a) how many of the workmen are members of the union; and

(b) how their membership is distributed among the sections, shops or departments of the establishment.

**36. Groups of workmen's representatives.**—On receipt of the information called for under rule 35, the employer shall provide for the election of workmen's representatives on the Committee in two groups—

(1) those to be elected by the workmen of the establishment who are members of the union or unions, and

(2) those to be elected by the workmen of the establishment who are not members of the union or unions, bearing the same proportion to each other as the union members in the establishment bear to the non-members:

Provided that where more than half the workmen are members of a union, no such division shall be made:

<sup>10</sup>[Provided that where a registered Trade Union neglects or fails to furnish the information called for under rule 35, within one month of the date of the notice requiring

<sup>9</sup> Substituted by Notification No. S.R.O. 469 dated the 7th March, 1952.

<sup>10</sup> Added by Notification No. S.R.O. 702 dated the 10th April, 1952.

it to furnish such information the members of such Union shall for the purpose of this rule be treated as non-members.]

**37. Electoral constituencies.**—Where under rule 36 the workmen's representatives are to be elected in two groups, the workmen entitled to vote shall be divided into two electoral constituencies, the one consisting of those who are members of a union and the other of those who are not:

Provided that the employer may, if he thinks fit, sub-divide the two electoral constituencies and direct that workmen shall vote in either by groups, sections, shops or departments.

**38. Qualification of candidates for election.**—Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may if nominated as provided in these rules, be a candidate for election as a representative of the workmen on the Committee:

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year.

**39. Qualifications for voters.**—All workmen, other than casual employees, who are not less than 18 years of age and who have put in not less than 6 months' service in the establishment shall be entitled to vote in the election of the representatives of workmen.

**40. Procedure for election.**—(1) The employer shall fix a date as the closing date for receiving nominations from candidates for election as workmen's representatives on the Committee.

(2) For holding the election, the employer shall also fix a date which shall not be earlier than three days and later than ten days after the closing date for receiving nominations.

(3) The dates so fixed shall be notified at least seven days in advance to the workmen and the union or unions concerned, such notice shall be affixed on the notice board or given adequate publicity amongst the workmen. The notice shall specify the number of seats to be elected by the groups, sections, shops or departments and the number to be elected by the members of the union or unions and by the non-members.

(4) A copy of such notice shall be sent to the union or unions concerned.

**41. Nomination of candidates for election.**—(1) Every nomination shall be made on a nomination paper in Form H, copies of which shall be supplied by the employer to the workmen requiring them.

(2) Each nomination paper must be signed by the candidate to whom it relates and attested by at least two other voters belonging to the electoral constituency and shall be delivered to the employer.

**42. Scrutiny of nomination papers.**—(1) On the day following the last day fixed for filing the nomination papers, the nomination papers shall be scrutinised by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected.

(2) For the purpose of sub-rule (1) a nomination paper shall be held to be not valid if (a) the candidate nominated is ineligible for membership under rule 38, or (b) the requirements of rule 41 have not been complied with.

**43. Voting in election.**—(1) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected.

(2) If in any constituency the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held in such manner as may be convenient for each electoral constituency.

(4) The voting shall be conducted by the employer, and, if any of the workmen concerned belong to a union, by such of them as the union may nominate.

<sup>11</sup>[(5) Every workman entitled to vote at an electoral constituency shall have as many votes as there are seats to be filled in the constituency.]

**44. Arrangements for election.**—The employer shall be responsible for all arrangements in connection with the election.

<sup>12</sup>[**45. Officers of the Committee.**—(1) The Committee shall have among its office bearers a Chairman, a Vice-Chairman, a Secretary and a Joint Secretary. Such office bearers other than the Chairman shall be elected every year.]

<sup>11</sup> Added by Notification No. S.R.O. 702 dated the 10th April, 1952.

<sup>12</sup> Substituted, *ibid*.

(2) The Chairman shall be nominated by the employer from amongst the employer's representatives on the Committee.

(3) The Vice-Chairman shall be elected by the Committee from amongst the workmen's representatives on the Committee.

<sup>12</sup>[(4) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from among the representatives of the employers, the Joint Secretary shall be elected from among the representatives of the workmen and *vice versa* :

Provided further that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the employer or the workmen, for two consecutive years.]

**46. Term of office.**—(1) The term of office of a workmen's representative on the Committee other than a member chosen to fill a casual vacancy shall be two years.

(2) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.

**47. Vacancies.**—In the event of a workmen's representative ceasing to be employed in the establishment or in the event of his resigning the membership in the Committee, his successor shall be elected from the constituency to which the member vacating the seat belonged.

**48. Power to co-opt.**—The Committee shall have the right to co-opt in a consultative capacity persons employed in the establishment having a particular or special knowledge of a matter under discussion. Such co-opted members shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

**49. Number of meetings.**—The Committee may meet as often as necessary but not less often than once a month.

**50. Facilities for meeting, etc.**—The employer shall provide accommodation for holding meetings of the Committee. He shall also provide all necessary facilities to the Committee and to the members thereof for carrying out the work of the Committee.

<sup>13</sup>[**50-A. Dissolution of Works Committee.**—The Central Government, or where the power under section 3 has been delegated to any officer or authority under section 39, such officer or authority may, after making such inquiry as it or he may deem fit, dissolve any Works Committee at any time, by an order in writing, if he or it is satisfied that the Committee has not been constituted in accordance with these rules or that not less than two-thirds of the number of representatives of the workmen have, without any reasonable justification, failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function :

Provided that where a Works Committee is dissolved under this rule, the employer, may, and if so required by the Central Government or, as the case may be, by such officer or authority, shall, take steps to re-constitute the Committee in accordance with these rules.]

#### PART VI—MISCELLANEOUS

**51. Memorandum of settlement.**—The memorandum of settlement to be submitted by the conciliation officer/Board of Conciliation shall be in Form D.

<sup>14</sup>[**51-A. Complaints regarding change of conditions of service, etc.**—(1) Every complaint under section 33A of the Act shall be presented in triplicate in Form DD, and shall be accompanied by as many copies of the complaint as there are opposite parties to the complaint.

(2) Every complaint under sub-rule (1) shall be verified at the foot by the employee making it or by some other person proved to the satisfaction of the Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by references to the numbered paragraphs of the complaint, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.]

<sup>13</sup> Inserted by Notification No. S.R.O. 2260 dated the 7th December, 1953.

<sup>14</sup> Substituted by Notification No. S.R.O. 803 dated the 1st March, 1954.



<sup>15</sup>[51-B. Application for permission under section 33.—(1) An employer intending to obtain the express permission in writing of the conciliation officer, Board or Tribunal, as the case may be, under section 33 shall present an application in Form DDI in triplicate to such conciliation officer, Board or Tribunal and shall file along with the application as many copies thereof as there are opposite parties.]

(2) Every application under sub-rule (1) shall be verified at the foot by the employer making it or by some other person proved to the satisfaction of the conciliation officer, Board or Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by reference to the numbered paragraphs of the application, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was verified.]

52. Notice of strike.—(1) The notice of strike to be given by employees in a public utility service shall be in Form E.

<sup>16</sup>[(2) On receipt of a notice of a strike under sub-rule (1), the employer shall forthwith intimate the fact to the conciliation officer having jurisdiction in the matter.]

53. Notice of lock-out.—The notice of lock-out to be given by an employer carrying on a public utility service shall be in Form F.

54. Report of lock-out or strike.—The report of a lock-out or strike in a public utility service to be submitted by the employer under sub-section (3) of section 22, shall be in Form G.

55. Report of notice of strike or lock-out.—The report of notice of a strike or lock-out to be submitted by the employer under sub-section (6) of section 22 shall be sent by registered post or given personally to the Conciliation Officer (Central) appointed for the local area concerned, with copy by registered post to:—

- (1) The Administrative Department of the Government of India concerned,
- (2) The Regional Labour Commissioner (Central) for the Zone,
- (3) Chief Labour Commissioner (Central),
- (4) Ministry of Labour of the Government of India, and
- (5) The District Magistrate.

<sup>17</sup>[55A. Notice of retrenchment.—If any employer desires to retrench any workman employed in his industrial establishment who has been in continuous service for not less than one year under him (hereinafter referred to as 'workman' in this rule and in rules 55B and 55C), he shall give notice of such retrenchment as in Form GG to the Central Government and such notice shall be served on that Government by registered post in the following manner:—

(a) Where notice is given to the workman, notice of retrenchment shall be sent within three days from the date on which notice is given to the workman;

(b) Where no notice is given to the workman and he is paid one month's wages in lieu thereof, notice of retrenchment shall be sent within three days from the date on which such wages are paid; and

(c) Where retrenchment is carried out under an agreement which specifies a date for the termination of services, notice of retrenchment shall be sent so as to reach the Central Government at least one month before such date:

Provided that if the date of termination of service agreed upon is within 30 days of the agreement, the notice of retrenchment shall be sent to Government within 3 days of the agreement.]

<sup>17</sup>[55B. Maintenance of seniority list of workmen.—The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be posted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.]

<sup>17</sup>[55C. Re-employment of retrenched workmen.—(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details

<sup>15</sup> Inserted by Notification No. S.R.O. 1945 dated the 17th November, 1952.

<sup>16</sup> Substituted by Notification No. S.R.O. 469 dated the 7th March, 1952.

<sup>17</sup> Substituted by Notification No. S.R.O. 1419 dated the 27th June, 1955.

of those vacancies and shall also give intimation of those vacancies to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter:

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 55B, the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of duration less than one month, there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen.

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and the names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where intimation is sent to every one of the workmen mentioned in the list prepared under rule 55B.]

**56. Penalties.**—Any breach of these rules shall be punishable with fine not exceeding fifty rupees.

### SCHEDULE

#### FORM A—(See rule 3)

*Form of application under sub-section (2) of section 10 of the Industrial Disputes Act, 1947, for the reference of an industrial dispute to a Board of Conciliation/Court of Inquiry/Industrial Tribunal.*

Whereas an industrial dispute is apprehended/exists between.....and.....and it is expedient that the matters specified in the enclosed statement which are connected with or relevant to the dispute should be referred for investigation and settlement/enquiry/adjudication by a Board of Conciliation/a Court of Inquiry/an Industrial Tribunal, an application is hereby made under sub-section (2) of section 10 of the Industrial Disputes Act, 1947, that the said matters/said dispute should be referred for a Board of Conciliation/a Court of Inquiry/an Industrial Tribunal.

This application is made by the undersigned who has/have been duly authorised to do so by virtue of a resolution (copy enclosed) adopted by a majority of the members present at a meeting of the.....held on the.....19 ..

A statement giving the particulars required under rule 3 of the Industrial Disputes (Central) Rules, 1947 is attached.

Dated the.....19 ..

Signature of Applicant(s)

To

The Secretary to the Government of India,  
Ministry of Labour.

Statement required under rule 3 of the Industrial Disputes (Central) Rules, 1947, to accompany the form of application prescribed under sub-section (2) of section 10 of the Industrial Disputes Act, 1947:—

- (a) Parties to the dispute.
- (b) Specific matters in dispute.
- (c) Total number of workmen employed in the undertaking affected.
- (d) Estimate of the number of workmen affected or likely to be affected by the dispute.
- (e) Efforts made by the parties themselves to adjust the dispute.

#### FORM B—(See rule 6)

Whereas an industrial dispute has arisen/is apprehended between.....and.....and it is expedient to refer the said dispute under section 10 of the Industrial Disputes Act, 1947, to a Board of Conciliation for the purpose of investigating the same and for promoting a settlement thereof, you are hereby required to intimate to the undersigned not later than the.....the name(s) and address(es) of one (two) person(s) whom you wish to recommend for appointment as your representative(s) on the said Board.

If you fail to make the recommendation by the date specified above, the Central Government will select and appoint such person(s) as it thinks fit to represent you.

Secretary to the Government of India,  
Ministry of Labour.

## FORM C—(See rule 15)

Whereas an industrial dispute between.....and.....has been referred to this Board of Conciliation for investigation and settlement/Court of Inquiry for investigation/Industrial Tribunal for adjudication under section 10 of the Industrial Disputes Act, 1947, you are hereby summoned to appear before the Board/Court/Tribunal in person on the .....day of.....at.....o'clock in the.....noon to answer all material questions relating to the said dispute and you are directed to produce on that day all the books, papers and other documents and things in your possession or under your control in any way relating to the matter under investigation by this Board/Court/Tribunal.

Dated

Chairman/Secretary, Board of Conciliation/Court of Enquiry/Industrial Tribunal.

<sup>18</sup>[FORM CC—(See rule 30)]

Before (here mention the authority concerned)

Reference No.....of.....Workmen

*Versus*

Employer

In the matter of.....

I/We, hereby authorise Shri.....to represent me/us in the above matter.

Dated this .....day of.....195 ..

Accepted.

(Signature)

Address

(Signature)

Address]

## FORM D—(See rule 51)

*Form of Memorandum of Settlement*

Names of parties.

Representing employer

Representing employees

Signature of Conciliation Officer/Board of Conciliation.

Short recital of case

Terms of agreement

Signature of parties.

<sup>19</sup>[FORM DD—(See rule 51-A)]

Before the Industrial Tribunal.....

Complaint under section 33A of the Industrial Disputes Act, 1947.

A.....Complainant(s)

Address:—

*Versus*

B.....Opposite Party(ies)

Address:—

In the matter of Reference No.....

The petitioner(s) begs/beg to complain that the Opposite Party(ies) has/have been guilty of a contravention of the provisions of Section 33 of the Industrial Disputes Act, 1947 (XIV of 1947) as shown below:—

(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the Management is challenged).

The complainant(s) accordingly prays/pray that the Tribunal may be pleased to decide the complaint set out above and pass such order or orders thereon as it may deem fit and proper.

The number of copies of the complaint and its annexures required by Rule 51A of the Industrial Disputes (Central) Rules, 1947, are submitted herewith.

Dated this .....day of .....195 .. Signature of the Complainant(s).

*Verification*

I do solemnly declare that what is stated in paragraphs.....above is true to my knowledge and that what is stated in paragraphs.....above is stated upon information received and believed by me to be true. This verification is signed by me at .....on day of.....19 ..

Signature/or Thumb Impression of the person verifying.]

<sup>18</sup> Inserted by Notification No. S.R.O. 469 dated the 7th March, 1952.

<sup>19</sup> Inserted by Notification No. S.R.O. 803 dated the 1st March, 1954

<sup>30</sup>[FORM DDI—(See rule 51-B)]

Before (here mention the Conciliation Officer, Board or Tribunal)  
Application for permission under section 33 of the Industrial Disputes Act, 1947,  
(XIV of 1947) in the matter of Reference No.....

A.....Applicant.  
Address

Versus

B.....Opposite Party(ies)  
Address(es)

The above mentioned applicant begs to state as follows:—

(Here set out the relevant facts and circumstances of the case and the grounds on which the permission is sought for.)

The applicant therefore prays that the express permission may kindly be granted to him to take the following action, namely:—

(Here mention the action specified in clause (a) or clause (b) of section 33.)

Dated this                      day of                      195                      Signature of the applicant.

Space for verification.

(Signature of the person verifying).

Date (on which the verification was signed)

Place (at which the verification was signed)

FORM E—(See rule 52)

*Form of notice of strike to be given by employee(s) in a public utility service.*

Name of Union/Names of elected representatives of employees where no trade union exists.

Address

Dated the                      day of                      19                      .

To

(The name of the employer).

Dear Sir/Sirs,

In accordance with the provisions contained in sub-section (1) of section 22 of the Industrial Disputes Act, 1947, I/We hereby give you notice that I propose to call a strike/we propose to go on strik on                      19                      for the reasons explained in the annexe.

Yours faithfully,

Secretary of the Union/Representative of the employees elected at a meeting held on

ANNEXE

Statement of the case.

Copy to: (1) Conciliation Officer (Central)

(Here enter office address of the Conciliation Officer in the local area concerned).

(2) Regional Labour Commissioner (Central)                      Zone.

(3) Chief Labour Commissioner (Central), New Delhi.

FORM F—(See rule 53)

*Form of notice of lock-out to be given by an employer carrying on a public utility service.*

Name of employer

Address

Dated the                      day of                      19                      .

To

(The Secretary of the Registered Union, if any).

Dear Sir,

In accordance with the provisions of sub-section (2) of section 22 of the Industrial Disputes Act, 1947, I/We hereby inform you that it is my/our intention to effect a lock-out with effect from                      for the reasons explained in the annexe.

Yours faithfully,

(\*)

\*Here insert the position which the person who signs the letter holds with the employer issuing this letter.

ANNEXE

Statement of the case.

Copy (1) Conciliation Officer (Central).

(Here enter office address of the Conciliation Officer in the local area concerned).

(2) Regional Labour Commissioner (Central)                      Zone.

(3) Chief Labour Commissioner (Central), New Delhi.

<sup>30</sup> Inserted by Notification No. S.R.O. 1945 dated the 17th November, 1952, read with Notification No. S.R.O. 803 dated the 1st March, 1954.

## Form G—(See rule 54)

*Form of Report of Strike or Lock-out in a public utility service*

Information to be supplied in this form immediately on the occurrence of a strike or lock-out in a public utility service to the Conciliation Officer (Central) for the local area concerned.

1	2	3	Number of Workers involved		6	7	8	9	10	11
			Directly	Indirectly						
Name of undertaking	Station and District	Normal Working Strength			Strike or lock-out	Date of commencement of strike or lock-out	Cause	Was notice of strike or lock-out given; if so, on what date and for what period?	Is there any permanent agency or agreement in the undertaking for the settlement of disputes between the employer and workmen? If any exists, particulars thereof	Any other information

**Note:—**Column (3). Give the average number of workmen employed during the month previous to the day on which the strike or lock-out occurred while reckoning the average, omit the days on which the attendance was not normal for reasons other than individual reasons of particular workmen. Thus days on which strike or lock-out occurs or communal holiday is enjoyed by a large section of workers should be omitted.

Column (4). If say, 200 workers in a factory strike work and in consequence the whole factory employing 1,000 workers has to be closed then 200 should be shown under "directly" and the remaining under "indirectly". If the strike of 200 workers does not affect the working of the other departments of the factory, the number of workers involved would only be 200, which figure should appear under "directly" and column "indirectly" would be blank.

Column (8). Give the main causes of the dispute as well as the immediate cause that led to the strike or lock-out.

# INDUSTRIAL DISPUTES (CENTRAL) RULES, 1947

1493

<sup>1</sup>[FORM GG—(See rule 55A)]

*Form of notice of retrenchment to be given by an employer under clause (c) of section 25F of the Industrial Disputes Act, 1947*

Name of employer

Address

Dated the

day of

195

To

The Secretary to the Government of India,  
Ministry of Labour, New Delhi.

Sir,

Under clause (c) of section 25F of the Industrial Disputes Act, 1947 (XIV of 1947), I/we hereby inform you that I/we have decided to retrench—% workmen with effect from the—for the reasons explained in the annexe.

2. \*The workmen concerned were given on the

\*Retrenchment is being effected in pursuance

\*The workmen were given on the @ 195

@ 195 one month's notice in writing as required

of an agreement, a copy of which is enclosed.

One month's pay in lieu of notice, as required under clause (a)

under clause (a) of section 25F of that Act

of section 25F of that Act

3. The total number of workmen employed in the industrial establishment is—  
and the total number of those who will be affected by the retrenchment is given below:—

Category or designation of workmen to be retrenched. (1)	Number of workmen	
	Employed (2)	To be retrenched. (3)

Yours faithfully,  
F

% Here insert the number of workmen.

@ Here insert the date.

\* Delete the portion which is not applicable.

F Here insert the position which the person who signs this letter holds with the employer issuing the letter.

x Here insert the total number of workmen engaged in the industrial establishment.

## ANNEXE

### Statement of reasons

Copy to—

(1) Conciliation Officer (Central).

(Here enter office address of the Conciliation Officer in local area concerned.)

(2) Regional Labour Commissioner (Central), New Delhi.]

FORM H—(See rule 41)

### Form of Nomination Paper

Name of Industrial Establishment	Group/Section/Shop/Department

<sup>21</sup> Inserted by Ministry of Labour Notification No. S.R.O. 1419 dated 27th June, 1955.

I nominate (Here enter the name of the workmen's representative eligible for election) as a candidate for election to the Works Committee.

Date

I agree to the proposed nomination.

Signature of Proposer

Signature of Candidate

Date

Attested by (1)  
(2)

To be signed by any two voters belonging to the electoral constituency.

## INDUSTRIAL TRIBUNAL (CENTRAL PROCEDURE) RULES, 1954<sup>1</sup>

In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government makes the following rules, the same having been published as required by sub-section (1) of the said section, namely:—

### INDUSTRIAL TRIBUNAL (CENTRAL PROCEDURE) RULES

1. These rules may be called the Industrial Tribunal (Central Procedure) Rules, 1954.
2. In these rules—

- (a) "the Act" means the Industrial Disputes Act, 1947 (XIV of 1947).
- (b) "Chairman" means the Chairman of the Tribunal;
- (c) "member" means a member of the Tribunal;
- (d) "section" means a section of the Act;
- (e) "Tribunal" means the Industrial Tribunal constituted under section 7 consisting of two or more members.

<sup>2</sup>[3. In the case of a Tribunal where it consists of two or more members, the Chairman may sit alone or with one or more members to hear an application or complaint in writing under section 33 or section 33A, as the case may be, for inquiry and report to the Tribunal or entrust any such application or complaint to one or more members, as he deems fit, for such inquiry and report.

4. The Chairman may withdraw any case or matters referred to one or more members under rule 3 and transfer the same to himself or any other member or members.

5. The report under rule 3, where the inquiry is made by one or more members, shall be submitted to the Chairman and where the inquiry is by the Chairman sitting alone or with one or more members, the report shall be submitted to the Tribunal:

Provided that in all cases, the final order on such application or complaint shall be passed by the Tribunal after taking into consideration the report submitted to it by the Chairman sitting singly or with one or more members or by any other member or members.]

6. The Tribunal shall, after considering the report submitted to the Chairman under rule 5 and making such further enquiry, if any, as it thinks fit, give its decision or award as the case may be.

<sup>3</sup>[7. For the purposes of making an inquiry under these rules, the Chairman or member or members, as the case may be, shall have all the powers of the Tribunal under section 11 and the provisions of rules 14 to 21, 24, 30 and 31 of the Industrial Disputes (Central) Rules, 1947, shall apply to such inquiry as if the Chairman or member or members by themselves constituted the Tribunal.]

## INDUSTRIAL DISPUTES (BANKING AND INSURANCE COMPANIES) ACT, 1949 (LIV OF 1949)

### Statement of Objects and Reasons\*

Prior to the promulgation on the 30th April, 1949 of the Industrial Disputes (Banking and Insurance Companies) Ordinance, disputes in banks and insurance companies were the responsibility of Provincial Governments. Provincial Governments were the "appropriate authority" under the Industrial Disputes Act, 1947. Besides this Central enactment, three Provinces, viz., Bombay, the United Provinces and the Central Provinces and Berar, have provincial labour relations enactments of their own under which also control

<sup>1</sup> These Rules were published under Ministry of Labour Notification No. S.R.O. 1793. dated 27th May, 1954 in Gazette of India Extraordinary, 1954, Part II—Sec. 3, p. 925.

<sup>2</sup> Rules 3 to 5 subs. by Notification No. S.R.O. 3534 dated 2nd December, 1954.

<sup>3</sup> Substituted, *ibid.*

\* Gazette of India, 1949, Part V, page 392.

over disputes in banks and insurance companies rested with the Provincial Governments. A bank with branches in several Provinces had, therefore, to deal with a number of Provincial Governments and a number of agencies including Tribunals set up by them for the settlement of disputes arising in its establishments. It was only to be expected that under such an arrangement it would be difficult for an organisation with country-wide establishments to maintain any principle of uniformity in the matter of wages, allowances and other terms and conditions of employment of its staff. While the question of undertaking the necessary legislation for removing this drawback was under consideration, a major dispute affecting the staff of a large number of banks in the United Provinces and having branches in various Provinces forced the issue and called for the intervention of the Central Government. There was every indication of similar disputes arising in other Provinces also. It was, therefore, considered urgently necessary for the Centre to intervene. The Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949, was accordingly promulgated on the 30th April, 1949. According to that Ordinance the responsibility for dealing with disputes in banks and insurance companies having branches in more than one Province passed over to the Central Government. As the Ordinance was to expire on the 30th October, 1949 it had to be replaced by a second Ordinance. It is now proposed to replace that Ordinance by an Act. The provisions contained in the Bill will eventually be included in the comprehensive legislation relating to the revision of the Industrial Disputes Act, 1947, now under the consideration of the Government.

## INDUSTRIAL DISPUTES (BANKING AND INSURANCE COMPANIES) ACT, 1949 (LIV OF 1949)<sup>1</sup>

*An Act to provide for the adjudication of Industrial Disputes concerning certain Banking and Insurance Companies.*

[15th December, 1949.]

Whereas it is expedient to provide for the adjudication of industrial disputes concerning banking and insurance companies having branches or other establishments in more than one <sup>2</sup>[State].

It is hereby enacted as follows:—

**1. Short title and extent.**—(1) This Act may be called the Industrial Disputes (Banking and Insurance Companies) Act, 1949.

(2) It extends to the whole of India <sup>3</sup>[except the State of Jammu and Kashmir].

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context, the expressions 'award', 'banking company', 'industrial dispute', and 'insurance company' have the meanings respectively assigned to them in section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), as amended by this Act.

**3. Amendment of section 2, Act XIV of 1947.** <sup>4</sup>[Repealed.]

**4. Prohibition of references by <sup>2</sup>[State] Governments of certain industrial disputes for adjudication, inquiry or settlement.**—Notwithstanding anything contained in any other law, it shall not be competent for a <sup>2</sup>[State] Government or any officer or authority subordinate to such Government to refer an industrial dispute concerning any banking or insurance company, or any matter relating to such dispute, to any tribunal or other authority for adjudication, inquiry or settlement.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1949, Part V, page 392, see also p. 1404 ante.

<sup>2</sup> Substituted by the Adaptation of Laws Order, 1950.

<sup>3</sup> Substituted by the Part B States (Laws) Act, 1951 (III of 1951).

<sup>4</sup> Repealed by the Repealing and Amending Act, 1952, (XLVIII of 1952). The amendments made by this Section have been incorporated in the Industrial Disputes Act, 1947. (XIV of 1947).



**5. Abatement of proceedings relating to disputes pending before <sup>2</sup>[State] tribunals and reference of such disputes to tribunals constituted by the Central Government.**—(1) Where under any law any industrial dispute concerning any banking or insurance company or any matter relating to such dispute has before the 30th day of April, 1949, been referred by a <sup>2</sup>[State] Government or any officer or authority subordinate to such Government to any tribunal or other authority for adjudication or settlement and any proceedings in respect of or arising out of such reference were immediately before that date pending before any tribunal or other authority, then on the aforesaid date such reference shall be deemed to have been withdrawn and all such proceedings shall have abated.

(2) The Central Government shall, as soon as may be after the commencement of this Act, by order in writing, refer under section 10 of the said Act every industrial dispute to which the provisions of sub-section (1) apply to an Industrial Tribunal constituted under the said Act for adjudication.

**6. Powers of Central Government to refer disputes in respect of which awards or decisions have been made for re-adjudication.**—(1) Where any award or decision has been made in respect of any industrial dispute concerning any banking or insurance company by any tribunal or other authority constituted or appointed by a <sup>2</sup>[State] Government, or any officer or authority subordinate to such Government, then the Central Government may, notwithstanding that the said award or decision is in force, by order in writing refer under section 10 of the said Act the dispute or any of the matters in dispute to an Industrial Tribunal constituted under the said Act for re-adjudication and stay the implementation of the award or decision so made or of any part of such award or decision until the Industrial Tribunal to which the dispute or any of the matters in dispute is referred for re-adjudication has submitted its award or for such further period as the Central Government may consider necessary.

(2) After the Industrial Tribunal to which the dispute or any of the matters in dispute has been so referred for re-adjudication has submitted its award under sub-section (1) of section 15 of the said Act, the Central Government may, by order in writing, declare that the award or decision previously made in respect of such dispute by the tribunal or other authority constituted or appointed by the <sup>2</sup>[State] Government or any officer or authority subordinate to such Government or such part of that award or decision as may be specified in the order shall cease to be in operation.

**7. Repeal of Ordinance XXVIII of 1949.**—(1) The Industrial Disputes (Banking and Insurance Companies) Second Ordinance, 1949 (XXVIII of 1949) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action taken.

## **INDUSTRIAL DISPUTES (AMENDMENT AND TEMPORARY PROVISIONS) ACT, 1951 (XL OF 1951)**

### **Statement of Objects and Reasons<sup>1</sup>**

Certain disputes between banks having branches in more than one State and their employees were adjudicated upon by an Industrial Tribunal called the All-India Industrial Tribunal (Bank Disputes) last year. The awards of the Tribunal have recently been declared void by the Supreme Court on the ground of defects in the constitution of the

<sup>1</sup> Gazette of India, 1951, Part II—Section 2, page 416.

Tribunal. The disputes have, therefore, to be resolved afresh. The main object of the Bill is to ensure that pending such settlement, employees continue to get whatever scales of pay or rates of allowances were allowed to them immediately prior to the declaration of the awards as void. Provision has also been made for enabling the appointment of persons other than judges as members of multi-member tribunals and, in particular, the appointment of a banking expert on tribunals adjudicating upon disputes in banks. There is also a clause which extends the provision now applicable only to public utility services to other classes of establishments, prescribing a period of two months as the normal time allowed for conciliation proceedings before a Board. Other clauses are largely consequential.

## INDUSTRIAL DISPUTES (AMENDMENT AND TEMPORARY PROVISIONS) ACT, 1951 (XL OF 1951)<sup>1</sup>

*An Act further to amend the Industrial Disputes Act, 1947, and to make certain temporary provisions relating to pay and allowances of certain workmen.*

[Tst<sup>h</sup> June, EFLE.]

Be it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951.

2. **Interpretation.**—All words and expressions used in this Act and defined in the Industrial Disputes Act, 1947 (XIV of 1947) shall have the meanings assigned to them in that Act.

<sup>2</sup> 3 to 6.—Amendments to the Industrial Disputes Act XIV of 1947.

7. **Temporary provisions relating to scales of pay, etc., of workmen in banking companies.**—(1) No employer in relation to any banking company carrying on business in any Part A State or the State of Delhi, Ajmer or Coorg or the Andaman and Nicobar Islands shall save in accordance with the terms of any settlement arrived at, or any award made, under the Industrial Disputes Act, 1947 (XIV of 1947),—

(a) alter, to the prejudice of any workman employed in such banking company, the scale of pay or rate of allowances according to which he has been paid, or would, if he had been continuously employed during the month of March, 1951, have been paid, in respect of any monthly, weekly or other period immediately before the 1st day of April, 1951; or

(b) recover from any such workman any amount already paid to him whether as pay or allowances (in accordance with any scales of pay or rates of allowances which were applied to him at any time after the 1st day of February, 1950) on the ground that the workman was not legally entitled to such scales of pay or rates of allowances.

**Explanation.**—For the purposes of this section, ‘allowances’ mean any dearness allowance, house-rent allowance, halting allowance, washing allowance, fuel allowance and officiating allowance (so long as the workman holds the officiating appointment) and includes any special pay or allowance paid to a workman on the ground of special qualifications, skill or responsibility attaching to, or required in respect of, his work or office and also includes the special pay or allowance given to—

(i) graduates, (ii) holders of banking diplomas like C. A. I. I. B. and C. A. I. B., (iii) comptists; (iv) stenographers; (v) cashiers; (vi) supervisors; (vii) sub-accountants; (viii) clerks-in-charge; (ix) departmental-in-charge; (x) head clerks, and (xi) certain categories of subordinate staff.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1951, Part II—Section 2, page 416, see also p. 1406 ante.

<sup>2</sup> The amendments have been incorporated in the Industrial Disputes Act, 1947.

(2) For the removal of doubts, it is hereby declared that notwithstanding anything contained in any law it shall be lawful to make such retrospective adjustment in relation to scales of pay and rates of allowances referred to in sub-section (1) as may be necessary in order to give effect to the terms of any settlement arrived at or award made under the Industrial Disputes Act, 1947 (XIV of 1947).

**8. Recovery of money due from an employer.**—Any money due from an employer under the provisions of section 7 may be recovered in the same manner as an arrear of land revenue or as a public demand by the appropriate Government either on its own motion or an application made to it by the persons entitled to such money.

### **INDUSTRIAL DISPUTES (BANKING COMPANIES) DECISION ACT, 1955 (XLI OF 1955)**

#### **Statement of Objects and Reasons<sup>1</sup>**

In June, 1949, the Central Government referred for adjudication a number of disputes between the banking companies in the country and their employees to an All-India Industrial Tribunal known as the Sen Tribunal. The Tribunal gave its award in July, 1950, but it was set aside by the Supreme Court in April, 1951. The matter was subsequently referred to another All-India Industrial Tribunal known as Sastry Tribunal in January, 1952. That Tribunal gave its award in April, 1953. On appeal, the Labour Appellate Tribunal made certain alterations in the award. The decision of the Labour Appellate Tribunal was modified by Government in certain respects in August, 1954. In making the modifications, Government was necessarily guided by the material available at the time. It was considered desirable to collect more complete data and to have the matter investigated further in the light of those data. Government, therefore, appointed a single-member Commission of Inquiry known as the Bank Award Commission, consisting of a Judge of the Bombay High Court. The Commission was requested to conduct a fact-finding enquiry and make recommendations as regards the further modifications, if any, necessary in the decision of the Labour Appellate Tribunal as adapted by the Government's Modification Order. The Commission submitted its recommendations towards the end of July, 1955. Government have accepted in full the recommendations of the Commission on the substantive terms of the award. This Bill is designed to give effect to the recommendations of the Commission. Considering that the dispute has been pending since 1949 and that it has taken so long to finalise the terms and conditions of service of the employees in question, it is considered desirable that those terms and conditions should remain in operation for at least five years instead of the normal period of one year provided for in the Industrial Disputes Act, 1947. The Bill accordingly makes the necessary provision in this regard.

2. It has also been considered advisable to provide for a suitable machinery to resolve points of difference or doubt between the parties as regards the interpretation or application of the terms of the award. Provision in this regard has been made in the Bill.

### **INDUSTRIAL DISPUTES (BANKING COMPANIES) DECISION ACT, 1955 (XLI OF 1955)**

#### **Arrangement of Sections**

1. Short title.
2. Definitions.
3. Appellate decision to have effect subject to the modifications recommended by the Bank Award Commission.
4. Duration of the award.
5. Modification order to have no effect except in certain case.
6. Power to remove difficulties.

<sup>1</sup> Gazette of India Extraordinary, 1955, Part 2—Sec. 2, pp. 448-449.

**INDUSTRIAL DISPUTES (BANKING COMPANIES) DECISION  
ACT, 1955 (XLI OF 1955)<sup>1</sup>**

*An Act to provide for the modification of the decision of the Labour Appellate Tribunal, dated the 28th day of April, 1954, in accordance with the recommendations of the Bank Award Commission and for giving effect to the award accordingly.*

[21st October, 1955.]

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Industrial Disputes (Banking Companies) Decision Act, 1955.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “appellate decision” means the decision of the Labour Appellate Tribunal, dated the 28th day of April, 1954, in the matter of the appeals filed before it against the award of the All-India Industrial Tribunal (Bank Disputes), Bombay;

(b) “award” means the award of the All-India Industrial Tribunal (Bank Disputes), Bombay, constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th day of January, 1952;

(c) “Bank Award Commission” means the person appointed by the Resolution of the Government of India in the Ministry of Labour No. LR. 100(9)/55, dated the 25th day of February, 1955, to enquire into and report upon the terms of reference specified in the Resolution of the Government of India in the Ministry of Labour No. LR. 100(56)/54, dated the 17th day of September, 1954;

(d) “modification order” means the order of the Government of India in the Ministry of Labour No. S.R.O. 2732, dated the 24th day of August, 1954, modifying the appellate decision under section 15 of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950.)

3. **Appellate decision to have effect subject to the modifications recommended by the Bank Award Commission.**—The appellate decision shall have effect as if the modifications recommended in Chapter XI of the Report of the Bank Award Commission, dated the 25th day of July, 1955, had actually been made therein, and the appellate decision as so modified shall be the decision of the Appellate Tribunal within the meaning of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), and the award shall have effect accordingly.

4. **Duration of the award.**—Notwithstanding anything contained in the Industrial Disputes Act, 1947 (XIV of 1947), or the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the award as now modified by the decision of the Appellate Tribunal in the manner referred to in section 3 shall remain in force until the 31st day of March, 1959.

5. **Modification order to have no effect except in certain case.**—The provisions of the modification order shall not have, and shall be deemed never to have had, any force or effect except in so far as any of such provisions has become incorporated in the award by reason of the provisions contained in section 3.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India Extraordinary, Part II—Section 2, pp. 448-449; see also p. 1408 ante.

**6. Power to remove difficulties.**—(1) If in the opinion of the Central Government any difficulty or doubt has arisen as to the interpretation of any provision of the award as now modified by the decision of the Appellate Tribunal in the manner referred to in section 3, it shall refer for decision the matter in respect of which such difficulty or doubt has arisen to a single member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), or to such Industrial Tribunal constituted under the Industrial Disputes Act, 1947 (XIV of 1947), as it may, by notification in the Official Gazette, specify in this behalf.

(2) The Tribunal to which such matter is referred shall, after giving the parties a reasonable opportunity of being heard, decide such matter and its decision shall be final and binding on all such parties.

## INDUSTRIAL DISPUTES (CENTRAL) RULES, 1957<sup>1</sup>

In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following Rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

### *Preliminary*

**1. Title and application.**—(1) These rules may be called the Industrial Disputes (Central) Rules, 1957.

(2) They extend to Union territories in relation to all industrial disputes, and to the States in relation only to an industrial dispute concerning—

- (a) any industry carried on by or under the authority of the Central Government or by a railway company; or
- (b) a banking or an insurance company, a mine, an oilfield, or a major port, or
- (c) any such controlled industry as may be specified under section 2(a) (i) of the Act by the Central Government:

Provided that they shall not apply to the State of Jammu and Kashmir except to the extent to which they relate to industrial disputes concerning workmen employed under the Government of India.

**2. Interpretation.**—In these rules, unless there is anything repugnant in the subject or context:—

- (a) "Act" means the Industrial Disputes Act, 1947 (14 of 1947);
- (b) "Chairman" means the chairman of a Board or Court or, if the Court consists of one person only, such person;
- (c) "Committee" means a Works Committee constituted under sub-section (1) of section 3 of the Act;
- (d) "form" means a form in the Schedule to these rules;
- (e) "section" means a section of the Act;
- (f) in relation to an industrial dispute in a Union territory, for which the appropriate Government is the Central Government, reference to the Central Government or the Government of India shall be construed as a reference to the Administrator of the territory, and reference to the Chief Labour Commissioner (Central), Regional Labour Commissioner (Central) and the Conciliation Officer (Central) shall be construed as reference to the appropriate authority, appointed in that behalf by the Administrator of the territory;
- (g) With reference to clause (g) of section 2 it is hereby prescribed that in relation to an industry carried on by or under the authority of a Department of the Central Government, the officer in charge of the industrial establishment shall be the 'employer' in respect of that establishment.

### *PART I—Procedure for reference of industrial disputes to Boards of Conciliation, Courts of Enquiry, Labour Courts, Industrial Tribunals or National Tribunals*

**3. Application.**—An application under sub-section (2) of section 10 for the reference to an industrial dispute to a Board, Court, Labour Court, Tribunal or National Tribunal shall be made in form A and shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of India in the Ministry of Labour. The application shall be accompanied by a statement setting forth:—(a) the parties to the dispute; (b) the specific matters in dispute; (c) the total number of workmen employed in the undertaking affected; (d) an estimate of the number of workmen affected or likely to be affected by the dispute; and (e) the efforts made by the parties themselves to adjust the dispute.

**4. Attestation of application.**—The application and the statement accompanying it shall be signed:—(a) in the case of an employer by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the Corporation; (b) in the case of workmen, either by the President and Secretary of trade union of the workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

**5. Notification of appointment of Board, Court, Labour Court, Tribunal or National Tribunal.**—The appointment of a Board, Court, Labour Court, Tribunal or National Tribunal together with the names of persons constituting the Board, Court, Labour Court, Tribunal or National Tribunal shall be notified in the Official Gazette.

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 770 dated the 10th March, 1957 in Gazette of India Extraordinary, Part II—Section 3, page 1137.

**6. Notice to parties to nominate representatives.**—(1) If the Central Government proposes to appoint a Board, it shall send a notice in Form B to the parties requiring them to nominate within a reasonable time persons to represent them on the Board.

(2) The notice to the employer shall be sent to the employer personally, or if the employer is an incorporated company or a body corporate, to the agent, manager or other principal officer of such company or body.

(3) The notice to the workmen shall be sent:—(a) in the case of workmen who are members of a trade union, to the President or Secretary of the trade union; and (b) in the case of workmen who are not members of a trade union, to any one of the five representatives of the workmen who have attested the application made under rule 3; and in this case a copy of the notice shall also be sent to the employer who shall display copies thereof on notice boards in a conspicuous manner at the main entrance to the premises of the establishment.

#### PART II—Arbitration Agreement

**7. Arbitration Agreement.**—An arbitration agreement for the reference of an industrial dispute to an arbitrator or arbitrators shall be made in form C and shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of India in the Ministry of Labour, the Chief Labour Commissioner (Central), New Delhi, and the Regional Labour Commissioner (Central) and the Conciliation Officer (Central) concerned. The agreement shall be accompanied by the consent, in writing, of the arbitrator or arbitrators

**8. Attestation of the Arbitration Agreement.**—The arbitration agreement shall be signed:—(a) in the case of an employer, by the employer himself, or when the employer is an incorporated Company or other body corporate, by the agent, manager, or other principal officer of the Corporation; (b) in the case of workmen, either by the President and Secretary of a trade union of the workmen or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

#### PART III—Powers, Procedure and Duties of Conciliation Officers, Boards, Courts, Labour Courts, Tribunals, National Tribunals and Arbitrators

**9. Conciliation proceedings in public utility service.**—The Conciliation Officer, on receipt of a notice of a strike or lockout given under rule 71 or rule 72, shall forthwith arrange to interview both the employer and the workmen concerned with the dispute at such places and at such times as he may deem fit and shall endeavour to bring about a settlement of the dispute in question.

**10. Conciliation proceedings in non-public utility service.**—Where the Conciliation Officer receives any information about an existing or apprehended industrial dispute which does not relate to public utility service and he considers it necessary to intervene in the dispute, he shall give formal intimation in writing to the parties concerned declaring his intention to commence conciliation proceedings with effect from such date as may be specified therein.

**11.** The Conciliation Officer may hold a meeting of the representatives of both parties jointly or of each party separately.

**12.** The Conciliation Officer shall conduct the proceedings expeditiously and in such manner as he may deem fit.

**13. Place and time of hearing.**—The sittings of a Board, Court, Labour Court, Tribunal or National Tribunal or of an Arbitrator shall be held at such times and places as the Chairman or the Presiding Officer or the Arbitrator, as the case may be, may fix and the Chairman, Presiding Officer or Arbitrator, as the case may be, shall inform the parties of the same in such manner as he thinks fit.

**14. Quorum for Boards and Courts.**—The quorum necessary to constitute a sitting of a Board or Court shall be as follows:

					Quorum
(i) in the case of a Board—					
where the number of members is 3	...	...	...	...	2
where the number of members is 5	...	...	...	...	3
(ii) in the case of a Court—					
where the number of members is not more than 2			...	...	1
where the number of members is more than 2 but less than 5				...	2
where the number of members is 5 or more			...	...	3

**15. Evidence.**—A Board, Court, Labour Court, Tribunal or National Tribunal or an Arbitrator may accept, admit or call for evidence at any stage of the proceedings before it/him and in such manner as it/he may think fit.

**16. Administration of oath.**—Any member of a Board or Court or presiding officer of a Labour Court, Tribunal or National Tribunal or an Arbitrator may administer an oath.

**17. Summons.**—A summons issued by a Board, Court, Labour Court, Tribunal or National Tribunal shall be in form D and may require any person to produce before it any books, papers or other documents and things in the possession of or under the control of such person in any way relating to the matter under investigation or adjudication by the Board, Court, Labour Court, Tribunal or National Tribunal which the Board, Court, Labour Court, Tribunal or National Tribunal thinks necessary for the purposes of such investigation or adjudication.

**18. Service of summons or notice.**—Subject to the provisions contained in rule 20, any notice, summons, process or order issued by a Board, Court, Labour Court, Tribunal, National Tribunal or an Arbitrator, empowered to issue such notice, summons, process or order, may be served either personally or by registered post.

**19. Description of parties in certain cases.**—Where in any proceeding before a Board, Court, Labour Court, Tribunal or National Tribunal or an Arbitrator, there are numerous persons arrayed on any side, such persons shall be described as follows:—(1) all such persons as are members of any trade union or association shall be described by the name of such trade union or association; and (2) all such persons as are not members of any trade union or association shall be described in such manner as the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator, as the case may be, may determine.

**20. Manner of service in the case of numerous persons as parties to a dispute.**—(1) Where there are numerous persons as parties to any proceeding before a Board, Court, Labour Court, Tribunal or National Tribunal or an arbitrator and such persons are members of any trade union or association, the service of notice on the Secretary, or where there is no Secretary, on the principal officer, of the trade union or association shall be deemed to be service on such persons.

(2) Where there are numerous persons as parties to any proceeding before a Board, Court, Labour Court, Tribunal or National Tribunal or an Arbitrator and such persons are not members of any trade union or association, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator, as the case may be, shall, where personal service is not practicable, cause the service of any notice to be made by affixing the same at or near the main entrance of the establishment concerned.

(3) A notice served in the manner specified in sub-rule (2) shall also be considered as sufficient in the case of such workmen as cannot be ascertained and found.

**21. Procedure at the first sitting.**—At the first sitting of a Board, Court, Labour Court, Tribunal or National Tribunal, the Chairman or the Presiding Officer, as the case may be, shall call upon the parties in such order as he may think fit to state their case.

**22. Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.**—If without sufficient cause being shown, any party to proceedings before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed as if the party had duly attended or had been represented.

**23. Power of entry and inspection.**—A Board, or Court, or any member thereof, or a Conciliation Officer, a Labour Court, Tribunal or National Tribunal, or any person authorised in writing by the Board, Court, Labour Court, Tribunal or National Tribunal in this behalf may, for the purposes of any conciliation, investigation, enquiry or adjudication entrusted to the Conciliation Officer, Board, Court, Labour Court, Tribunal or National Tribunal under the Act, at any time between the hours of sunrise and sunset and in the case of a person authorised in writing by a Board, Court, Labour Court, Tribunal or National Tribunal after he has given reasonable notice, enter any building, factory, workshop, or other place or premises whatsoever, and inspect the same or any work machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to the subject-matter of the conciliation, investigation, enquiry or adjudication.

**24. Power of Boards, Courts, Labour Courts, Tribunals and National Tribunals.**—In addition to the powers conferred by the Act, Boards, Courts, Labour Courts, Tribunals and National Tribunals shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—(a) discovery and inspection; (b) granting adjournment; (c) reception of evidence taken on affidavit;

and the Board, Court, Labour Court, Tribunal, or National Tribunal may summon and examine any person whose evidence appears to it to be material and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.



**25. Assessors.**—Where assessors are appointed to advise a Tribunal or National Tribunal under sub-section (4) of section 7A or sub-section (4) of section 7B or by the Court, Labour Court, Tribunal or National Tribunal under sub-section (5) of section 11, the Court, Labour Court, Tribunal or National Tribunal, as the case may be, shall, in relation to proceeding before it, obtain the advice of such assessors, but such advice shall not be binding on it.

**26. Fees for copies of awards or other documents of Labour Court, Tribunal or National Tribunal.**—(1) Fees for making a copy of an award or an order of a Labour Court, Tribunal or National Tribunal or any document filed in any proceedings before a Labour Court, Tribunal or National Tribunal be charged as follows:

- (a) for the first 200 words or less, 12 annas; (b) for every additional 100 words or fraction thereof, 6 annas:

Provided that where an award or order or document exceeds five pages, the approximate number of words per page shall be taken as the basis for calculating the total number of words, to the nearest hundred, for the purpose of assessing the copying fee.

(2) For certifying a copy of any such award or order or document, a fee of Re. 1/- shall be payable.

(3) Copying and certifying fees shall be payable in cash in advance.

(4) Where a party applies for immediate delivery of a copy of any such award or order or document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.

**27. Decision by majority.**—All questions arising for decision at any meeting of a Board or Court, save where the Court consists of one person, shall be decided by a majority of the votes of the members thereof (including the Chairman) present at the meeting. In the event of an equality of votes the Chairman shall also have a casting vote.

**28. Correction of errors.**—The Labour Court, Tribunal, National Tribunal or Arbitrator may correct any clerical mistake or error arising from an accidental slip or omission in any award it/he issues.

**29. Right of representatives.**—The representatives of the parties appearing before a Board, Court, Labour Court, Tribunal or National Tribunal or an Arbitrator shall have the right of examination, cross-examination and of addressing the Board, Court, Labour Court, Tribunal or National Tribunal or Arbitrator when an evidence has been called.

**30. Proceedings before a Board, Court, Labour Court, Tribunal or National Tribunal.**—The proceedings before a Board, Court, Labour Court, Tribunal or National Tribunal shall be held in public.

Provided that the Board, Court, Labour Court, Tribunal or National Tribunal may at any stage direct that any witness shall be examined or its proceedings shall be held *in camera*.

#### PART IV—*Remuneration of Chairmen and Members of Courts, Presiding Officers of Labour Courts, Tribunals and National Tribunals, Assessors, and Witnesses*

**31. Travelling allowance.**—The Chairman or a member of a Board or Court, or the Presiding Officer or an Assessor of a Labour Court, Tribunal or National Tribunal, if a non-official, shall be entitled to draw travelling allowance and halting allowance, for any journey performed by him in connection with the performance of his duties, at the rates admissible and subject to the conditions applicable to a Government servant of the first grade under the Supplementary Rules issued by the Central Government from time to time.

**32. Fees.**—The Chairman and a member of a Board or Court, the Presiding Officer and an Assessor of a Labour Court, Tribunal or National Tribunal wherever he is not a salaried officer of Government may be granted such fees as may be sanctioned by the Central Government in each case.

**33. Expenses of witnesses.**—Every person who is summoned and duly attends or otherwise appears as a witness before a Board, Court, Labour Court, Tribunal or National Tribunal or an Arbitrator shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil courts in the State where the investigation, enquiry, adjudication or arbitration is being conducted.

#### PART V—*Notice of Change*

**34. Notice of Change.**—Any employer intending to effect any change in the conditions of service applicable to any workmen in respect of any matter specified in the Fourth Schedule shall give notice of such intention in Form E.

**35. Manner of service of notice of change.**—(1) Where there are numerous workmen affected by a notice of change and the majority of such workmen are members of any trade union, the service of notice, by registered post, on the secretary, or where there

is no secretary, on the principal officer of the trade union shall be deemed to be service on all such workmen. The employer shall, at the same time, arrange to exhibit the notice by affixing it to a notice board in the manner specified in sub-rule (2).

Provided that if the secretary or the principal officer refuses to receive the notice or that for any other reason the notice cannot be served on the secretary or the principal officer in the ordinary way, the exhibition of the notice in the manner specified in sub-rule (2) shall be deemed to be service on all such workmen.

(2) Where there are numerous workmen affected by a notice of change and the majority of such workmen are not members of any trade union or association the employer shall, where personnel service is not practicable, cause the service of any such notice to be made by affixing the same to a notice board at or near the entrance or entrances of the establishment concerned and the notice shall remain so affixed for period of twenty-one days. The notice shall be in English, the regional language and the language understood by the majority of the workmen in the establishment concerned.

(3) A copy of the notice shall simultaneously be forwarded by the employer to the Conciliation Officer (Central) and the Regional Labour Commissioner (Central), concerned.

#### PART VI—Representation of Parties

**36. Form of authority under section 36.**—The authority in favour of a person or persons to represent a workman or group of workmen or an employer in any proceeding under the Act shall be in Form F.

**37. Parties bound by acts of representative.**—A party appearing by a representative shall be bound by the acts of that representative

#### PART VII—Works Committee

**38. Constitution.**—Any employer to whom an order made under sub-section (1) of section 3 relates shall forthwith proceed to constitute a Works Committee in the manner prescribed in this part

**39. Number of members.**—The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and classes of workmen engaged in, and to the sections, shops or departments of the establishment:

Provided that the total number of members shall not exceed twenty:

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employer

**40. Representatives of employer.**—Subject to the provisions of these rules, the representatives of the employer shall be nominated by the employer and shall as far as possible, be officials in direct touch with or associated with the working of the establishment.

**41. Consultation with trade unions.**—(1) Where any workmen of an establishment are members of a registered trade union, the employer shall ask the union to inform him in writing—(a) how many of the workmen are members of the union; and (b) how their membership is distributed among the sections, shops or departments of the establishment

(2) Where an employer has reason to believe that the information furnished to him under sub-rule (1) by any trade union is false, he may, after informing the union, refer the matter to the Conciliation Officer (Central) concerned for his decision; and the Conciliation officer, after hearing the parties shall decide the matter and his decision shall be final.

**42. Groups of workmen's representatives.**—On receipt of the information called for under rule 41, the employer shall provide for the election of workmen's representatives on the Committee in two groups—

1. those to be elected by the workmen of the establishment who are members of the registered trade union or unions, and
2. those to be elected by the workmen of the establishment who are not members of the registered trade union or unions,

bearing the same proportion to each other as the union members in the establishment bear to the non-members:

Provided that where more than half the workmen are members of the union or any one of the unions, no such division shall be made:

Provided further that where a registered trade union neglects or fails to furnish the information called for under sub-rule (1) of rule 41 within one month of the date of the notice requiring it to furnish such information such union shall for the purpose of this rule be treated as if it did not exist.

Provided further that where any reference has been made by the employer under sub-rule (2) of rule 41, the election shall be held on receipt of the decision of the Conciliation Officer.

**43. Electoral constituencies.**—Where under rule 42 the workmen's representatives are to be elected in two groups, the workmen entitled to vote shall be divided into two electoral constituencies, the one consisting of those who are members of a registered trade union and the other of those who are not:

Provided that the employer may, if he thinks fit subdivide the two electoral constituencies and direct that workmen shall vote in either by groups, sections, shops or departments.

**44. Qualification of candidates for election.**—Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may if nominated as provided in these rules be a candidate for election as a representative of the workmen on the Committee:

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year.

**45. Qualifications for voters.**—All workmen, other than casual employees, who are not less than 18 years of age and who have put in not less than 6 months' service in the establishment shall be entitled to vote in the election of the representative of workmen.

**46. Procedure for election.**—(1) The employer shall fix a date as the closing date for receiving nominations from candidates for election as workmen's representatives on the Committee.

(2) For holding the election, the employer shall also fix a date which shall not be earlier than three days and later than ten days after the closing date for receiving nominations.

(3) The dates so fixed shall be notified at least seven days in advance to the workmen and the registered trade union or unions concerned. Such notice shall be affixed on the notice board or given adequate publicity amongst the workmen. The notice shall specify the number of seats to be elected by the groups, sections, shops or departments and the number to be elected by the members of the registered trade union or unions and by the non-members.

(4) A copy of such notice shall be sent to the registered trade union or unions concerned.

**47. Nomination of candidates for election.**—(1) Every nomination shall be made on a nomination paper in Form 'G' copies of which shall be supplied by the employer to the workmen requiring them.

(2) Each nomination paper shall be signed by the candidate to whom it relates and attested by at least two other voters belonging to the group, section, shop or department the candidate seeking election will represent, and shall be delivered to the employer.

**48. Scrutiny of nomination papers.**—(1) On the day following the last day fixed for filing nomination papers, the nomination papers shall be scrutinised by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected.

(2) For the purpose of sub-rule (1), a nomination paper shall be held to be not valid if (a) the candidate nominated is ineligible for membership under rule 44 or (b) the requirements of rule 47 have not been complied with.

Provided that where a candidate or an attesting person is unable to be present at the time of scrutiny, he may send a duly authorised nominee for the purpose.

**49. Voting in election.**—(1) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected.

(2) If in any constituency the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held in such manner as may be convenient for each electoral constituency.

(4) The voting shall be conducted by the employer, and if any of the candidates belong to a union such of them as the union may nominate shall be associated with the election.

(5) Every workman entitled to vote at an electoral constituency shall have as many votes as there are seats to be filled in the constituency:

Provided that each voter shall be entitled to cast only one vote in favour of any one candidate.

**50. Arrangements for election.**—The employer shall be responsible for all arrangements in connection with the election.

**51. Officers of the Committee.**—(1) The Committee shall have among its office bearers a Chairman, a Vice-Chairman, a Secretary and a Joint Secretary. The Secretary and the Joint Secretary shall be elected every year.

(2) The Committee shall elect the Chairman and the Vice-Chairman provided that where the Chairman is elected from amongst the representatives of the employers, the Vice-Chairman shall be elected from amongst the representatives of workmen and *vice versa*.

Provided further that the post of the Chairman or the Vice-Chairman, as the case may be, shall not be held by a representative of the employer or the workmen, for two consecutive terms.

(3) The Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from amongst the representatives of the employers, the Joint Secretary shall be elected from amongst the representatives of the workmen and *vice versa*:

Provided further that the post of the Secretary or the Joint Secretary, as the case may be, shall not be held by a representative of the employer or the workmen, for two consecutive years.

**52. Term of office.**—(1) The term of office of a workmen's representative on the Committee other than a member chosen to fill a casual vacancy shall be two years.

(2) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.

(3) A member who, without obtaining leave from the Committee, fails to attend three consecutive meetings of the Committee shall forfeit his membership.

**53. Vacancies.**—In the event of workmen's representative ceasing to be a member under sub-rule (3) of rule 52 or ceasing to be employed in the establishment or in the event of his resignation, death or otherwise, his successor shall be elected in accordance with the provisions of this Part from the same group, section, shop or department to which the member vacating the seat belonged.

**54. Power to co-opt.**—The Committee shall have the right to co-opt in a consultative capacity persons employed in the establishment having particular or special knowledge of a matter under discussion. Such co-opted member shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

**55. Meetings.**—(1) The Committee may meet as often as necessary but not less often than once in three months (a quarter).

(2) The Committee shall at its first meeting regulate its own procedure.

**56. Facilities for meeting, etc.**—The employer shall provide accommodation for holding meetings of the Committee. He shall also provide all necessary facilities to the Committee and to the members thereof for carrying out the work of the Committee. The Committee shall ordinarily meet during working hours of the establishment concerned on any working day and the representative of the workmen shall be deemed to be on duty while attending the meeting.

**57. Dissolution of Works Committee.**—The Central Government, or where the power under section 3 has been delegated to any officer or authority under section 39, such officer or authority may, after making such inquiry as it or he may deem fit, dissolve any Works Committee at any time, by an order in writing, if he or it is satisfied that the Committee has not been constituted in accordance with these rules or that not less than two-thirds of the number of representatives of the workmen have, without any reasonable justification failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function:

Provided that where a Works Committee is dissolved under this rule, the employer may, and if so required by the Central Government or, as the case may be, by such officer or authority shall, take steps to re-constitute the Committee in accordance with these rules.

#### PART VIII—Miscellaneous

**58. Memorandum of settlement.**—(1) A settlement arrived at in the course of conciliation proceedings or otherwise, shall be in Form 'H'.

(2) The settlement shall be signed by—(a) in the case of an employer, by the employer himself, or by his authorised agent, or when the employer is an incorporated Company or other body corporate, by the agent, manager or other principal officer of the corporation; (b) in the case of workmen, either by the President and Secretary of a trade union of workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

(3) Where a settlement is arrived at in the course of conciliation proceeding, the Conciliation Officer shall send a report thereof to the Central Government together with a copy of the memorandum of settlement signed by the parties to the dispute.

(4) Where a settlement is arrived at between an employer and his workmen otherwise than in the course of conciliation proceeding before a Board or a Conciliation Officer, the parties to the settlement shall jointly send a copy thereof to the Central Government, the Chief Labour Commissioner (Central) New Delhi, and the Regional Labour Commissioner (Central) and to the Conciliation Officer (Central) concerned.

**59. Complaints regarding change of conditions of service, etc.—**(1) Every complaint under section 33-A of the Act shall be presented in triplicate in Form 'I' and shall be accompanied by as many copies of the complaint as there are opposite parties to the complaint.

(2) Every complaint under sub-rule (1) shall be verified at the foot by the workmen making it or by some other person proved to the satisfaction of the Labour Court, Tribunal or National Tribunal to be acquainted with the facts of the case.

(3) The person verifying shall specify, by references to the numbered paragraphs of the complaint, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(4) The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

**60. Application under Section 33.—**(1) An employer intending to obtain the express permission in writing of the Conciliation Officer, Board, Labour Court, Tribunal or National Tribunal as the case may be, under sub-section (1) or sub-section (3) of section 33 shall present an application in Form J in triplicate to such Conciliation Officer, Board, Labour Court, Tribunal or National Tribunal and shall file along with the application as many copies thereof as there are opposite parties.

(2) An employer seeking the approval of the Conciliation Officer, Board, Labour Court, Tribunal or National Tribunal, as the case may be, of any action taken by him under clause (a) or clause (b) of sub-section (2) of section 33 shall present an application in Form K in triplicate to such Conciliation Officer, Board, Labour Court, Tribunal or National Tribunal and shall file along with the application as many copies thereof as there are opposite parties.

(3) Every application under sub-rule (1) or sub-rule (2) shall be verified at the foot by the employer making it or by some other person proved to the satisfaction of the Conciliation Officer, Board, Labour Court, Tribunal or National Tribunal to be acquainted with the facts of the case.

(4) The person verifying shall specify by reference to the numbered paragraphs of the application, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.

(5) The verification shall be signed by the person making it and shall state the date on which and the place at which it was verified.

**61. Protected workmen.—**(1) Every registered trade union connected with an industrial establishment, to which the Act applies, shall communicate to the employer before the 30th September every year, the names and addresses of such of the officers of the union who are employed in that establishment and who, in the opinion of the union, should be recognised as "protected workmen". Any change in the incumbency of any such officer shall be communicated to the employer by the union within fifteen days of such change.

(2) The employer shall, subject to section 33, sub-section (4), recognise such workmen to be "protected workmen" for the purposes of sub-section (3) of the said section and communicate to the union, in writing, within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workmen recognised as protected workmen.

(3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workmen, admissible for the establishment, under section 33, sub-section (4), the employer shall recognise as protected workmen only such maximum number of workmen:

Provided that, where there is more than one registered trade union in the establishment, the maximum number shall be so distributed by the employer among the unions that the numbers of recognised protected workmen in individual unions bear roughly the same proportion to one another as the membership figures of the unions. The employer shall in that case intimate in writing to the President or the Secretary of the union the number of protected workmen allotted to it:

Provided further that where the number of protected workmen allotted to a union under this sub-rule, falls short of the number of officers of the union seeking protection, the union shall be entitled to select the officers to be recognised as protected workmen. Such selection shall be made by the union and communicated to the employer within five days of the receipt of the employer's letter.

(4) When a dispute arises between an employer and any registered trade union in any matter connected with the recognition of 'protected workmen' under this rule, the dispute shall be referred to the Conciliation Officer (Central) concerned, whose decision thereon shall be final.

**62. Application for recovery of dues.—**An application under section 33C shall be delivered personally or forwarded by registered post in triplicate to the Secretary to the Government of India in the Ministry of Labour.

# **MISCELLANEOUS LEGISLATION**



# **WORKING JOURNALISTS (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955 (XLV OF 1955)**

## **Statement of Objects and Reasons<sup>1</sup>**

The Press Commission which was constituted by Government to inquire, among other things, into the conditions of employment of working journalists, have made certain recommendations for improvement and regulation of such service conditions by means of legislation. These recommendations cover minimum period of notice, gratuity, provident fund, settlement of industrial disputes, leave with pay, hours of work and minimum wages. All these aspects are covered in the Bill which generally follows the lines indicated by the Press Commission; the determination of minimum wages has, however, for various reasons, been left to a Board to be constituted for this purpose.

2. The Commission also suggested the application of the Industrial Employment (Standing Orders) Act, 1946, and the Employees' Provident Funds Act, 1952, to the industry, and such application is also provided for in the Bill in respect of establishments exceeding a certain minimum size.

3. In order to provide a longer period of notice in certain cases of retrenchment, necessary legislative provision in respect of the application of Industrial Disputes Act, 1947, has been included in the Bill.

4. A transitional clause is also included to cover cases of retrenchment which had occurred after the Press Commission signed their report, but before the application of the Industrial Disputes Act, 1947, to working journalists. •

# **WORKING JOURNALISTS (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955 (XLV OF 1955)**

## **Arrangement of Sections**

### **CHAPTER I—PRELIMINARY**

1. Short title and extent.
2. Definitions.

### **CHAPTER II—WORKING JOURNALISTS**

3. Act XIV of 1947 to apply to working journalists.
4. Special provisions in respect of certain cases of retrenchment.
5. Payment of gratuity.
6. Hours of work.
7. Leave.
8. Constitution of Wage Board.
9. Fixation of wages.
10. Publication of decision of Board and its commencement.
11. Power and procedure of Board.
12. Decision of Board to be binding on all employers.
13. Power of Government to fix interim rates of wages.

### **CHAPTER III—APPLICATION OF CERTAIN ACTS TO NEWSPAPER EMPLOYEES**

14. Act XX of 1946 to apply to newspaper establishments.
15. Act XIX of 1952 to apply to newspaper establishments.

### **CHAPTER IV—MISCELLANEOUS**

16. Effect of laws and agreements inconsistent with this Act.
17. Recovery of money due from an employer.
18. Penalty.
19. Indemnity.
20. Power to make rules.
21. Repeal of Act I of 1955.

<sup>1</sup> Gazette of India Extraordinary, 1955, Part II—Sec. 2, pp. 493-494.



# **WORKING JOURNALISTS (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS ACT, 1955 (XLV OF 1955)<sup>1</sup>**

*An Act to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments.*

[20th December, 1955]

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

## **CHAPTER I—PRELIMINARY**

**1. Short title and extent.**—(1) This Act may be called the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Board" means the Wage Board constituted under section 8;

(b) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the Official Gazette;

(c) "newspaper employee" means any working journalist, and includes any other person employed to do any work in, or in relation to, any newspaper establishment;

(d) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production of publication of one or more newspapers or for conducting any news agency or syndicate;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "working journalist" means a person whose principal avocation is that of a journalist and who is employed as such in, or in relation to, any newspaper establishment, and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-taster, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who—

(i) is employed mainly in a managerial or administrative capacity, or

(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

(g) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (XIV of 1947), shall have the meanings respectively assigned to them in that Act.

## **CHAPTER II—WORKING JOURNALISTS**

**3. Act XIV of 1947 to apply to working journalists.**—(1) The provisions of the Industrial Disputes Act, 1947 (XIV of 1947), as in force for the time being, shall, subject to the modification specified in sub-section (2), apply to, or in relation to, working journalists as they apply to, or in relation to, workmen within the meaning of that Act.

(2) Section 25F of the aforesaid Act, in its application to working journalists, shall be construed as if in clause (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a working journalist had been substituted, namely:—

(a) six months, in the case of an editor, and

(b) three months, in the case of any other working journalist.

**4. Special provisions in respect of certain cases of retrenchment.**—Where at any time between the 14th day of July, 1954, and the 12th day of March, 1955, any working journalist had been retrenched, he shall be entitled to receive from the employer—

(a) wages for one month at the rate which he was entitled immediately before his retrenchment, unless he had been given one month's notice in writing before such retrenchment; and

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India Extraordinary, 1955, Part II—Sec. 2, pp. 493-494; see also p. 1413 ante. The administration of the Act has been transferred from the Ministry of Information and Broadcasting to the Ministry of Labour by the Order of the President of India dated the 21st April, 1956, vide Ministry of Home Affairs Notification No. S.R.O. 1133 dated the 15th May, 1956 in Gazette of India, 1956, Part II—Sec. 3, p. 732.

(b) compensation which shall be equivalent to fifteen days' average pay for every completed year of service under that employer or any part thereof in excess of six months.

**5. Payment of gratuity.**—(1) Where—(a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and—

(i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, or

(ii) he retires from service on reaching the age of superannuation, or

(iii) he voluntarily resigns from service from that newspaper establishment, or

(b) any working journalist dies while he is in service in any newspaper establishment, the working journalist or, as the case may be, his heirs shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, (XIV of 1947), be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

(2) Notwithstanding anything contained in sub-section (1), where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall be equivalent to—

(a) three days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;

(b) five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds five years but does not exceed ten years; and

(c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

**6. Hours of work.**—(1) Subject to any rules that may be made under this Act, no working journalist shall be required or allowed to work in any newspaper establishment for more than one hundred and forty-four hours during any period of four consecutive weeks, exclusive of the time for meals.

(2) Every working journalist shall be allowed during any period of seven consecutive days rest for a period of not less than twenty-four consecutive hours, the period between 10 P.M. and 6 A.M. being included herein.

*Explanation.*—For the purposes of this section, 'week' means a period of seven days beginning at mid-night on Saturday.

**7. Leave.**—Without prejudice to such holidays, casual leave or other kinds of leave as may be prescribed, every working journalist shall be entitled to—

(a) earned leave on full wages for not less than one-eleventh of the period spent on duty;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service.

**8. Constitution of Wage Board.**—(1) The Central Government may, by notification in the Official Gazette, constitute a Wage Board for fixing rates of wages in respect of working journalists in accordance with the provisions of this Act.

(2) The Board shall consist of an equal number of persons nominated by the Central Government to represent employers in relation to newspaper establishments and working journalists, and an independent person shall be appointed by the Central Government as the Chairman thereof.

**9. Fixation of wages.**—(1) In fixing rates of wages in respect of working journalists, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and to any other circumstances which to the Board may seem relevant.

(2) The Board may fix rates of wages for time work and for piece work.

(3) The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Central Government.

**10. Publication of decision of Board and its commencement.**—(1) The decision of the Board shall, within a period of one month from the date of its receipt by the Central Government, be published in such manner as the Central Government thinks fit.

(2) The decision of the Board published under sub-section (1) shall come into operation with effect from such date as may be specified in the decision, and where no date is so specified, it shall come into operation on the date of its publication.

**11. Powers and procedure of Board.**—Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure as an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, (XIV of 1947), exercises or follows for the purpose of adjudicating an industrial dispute referred to it.

**12. Decision of Board to be binding on all employers.**—The decision of the Board shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed by Board.

**13. Power of Government to fix interim rates of wages.**—(1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that it is necessary so to do, it may, after consultation with the Board, by notification in the Official Gazette, fix interim rates of wages in respect of working journalists.

(2) Any interim rates of wages so fixed shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rate of wages fixed under sub-section (1).

(3) Any interim rates of wages fixed under sub-section (1) shall remain in force until the decision of the Board comes into operation under sub-section (2) of section 10.

#### CHAPTER III—APPLICATION OF CERTAIN ACTS TO NEWSPAPER EMPLOYEES

**14. Act XX of 1946 to apply to newspaper establishments.**—The provisions of the Industrial Employment (Standing Orders) Act, 1946, (XX of 1946), as in force for the time being, shall apply to every newspaper establishment wherein twenty or more newspaper employees are employed or were employed on any day of the preceding twelve months as if such newspaper establishment were an industrial establishment to which the aforesaid Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if a newspaper employee were a workman within the meaning of that Act.

**15. Act XIX of 1952 to apply to newspaper establishments.**—The Employees' Provident Funds Act, 1952, (XIX of 1952) as in force for the time being, shall apply to every newspaper establishment in which twenty or more persons are employed on any day, as if such newspaper establishment were a factory to which the aforesaid Act had been applied by a notification of the Central Government under sub-section (3) of section 1 thereof, and as if a newspaper employee were an employee within the meaning of that Act.

#### CHAPTER IV—MISCELLANEOUS

**16. Effect of laws and agreements inconsistent with this Act.**—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise, a newspaper employee is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefit in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

**17. Recovery of money due from an employer.**—Where any money is due to a newspaper employee from an employer under any of the provisions of this Act, whether by way of compensation, gratuity or wages, the newspaper employee may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the money due to him, and if the State Government or such authority as the State Government may specify in his behalf is satisfied that any money is so due, it shall

issue a certificate for that amount to the collector and the collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

**18. Penalty.**—(1) If any employer contravenes the provisions of section 6, he shall be punishable with fine which may extend to two hundred rupees.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this section.

(3) No court shall take cognizance of an offence under this section, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

**19. Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Chairman or any other member of the Board for any thing which is in good faith done or intended to be done.

**20. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) payment of gratuity to working journalists;

(b) hours of work of working journalists;

(c) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to working journalists;

(d) the procedure to be followed by the Board in fixing rates of wages;

(e) the manner in which the decision of the Board may be published;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under this section shall, as soon as practicable after they are made, be laid before both Houses of Parliament.

**21. Repeal of Act I of 1955.**—The Working Journalists (Industrial Disputes) Act, 1955 (I of 1955), is hereby repealed.

## WORKING JOURNALISTS WAGE BOARD RULES, 1956

### Arrangement of Paragraphs

1. Short title and extent.
2. Definitions.
3. Meetings.
4. Notice of meetings.
5. Chairman to preside at meetings.
6. Quorum.
7. Proceedings before the Board.
8. Disposal of business.
9. Minutes of the proceedings.
10. Signing of the report.
11. Summoning of witnesses and production of documents.
12. Expenses of witnesses.
13. Resignation.
14. Absence from three consecutive meetings.
15. Acts of the Board not invalid by reasons of defect in its constitution, etc.
16. Manner in which the decision of the Board may be published.

## WORKING JOURNALISTS WAGE BOARD RULES, 1956<sup>1</sup>

In exercise of the powers conferred by section 20 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955), the Central Government hereby makes the following rules, namely:—

### WORKING JOURNALISTS WAGE BOARD RULES, 1956

**1. Short title and extent.**—(1) These rules may be called the Working Journalists Wage Board Rules, 1956.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

<sup>1</sup> These Rules were published under the Ministry of Labour Notification No. S.R.O. 1769 dated the 30th July, 1956 in Gazette of India, 1956, Part II—Sec. 3, p. 1346 as amended by Corrigendum Notification No. S.R.O. 1821 dated the 7th August, 1956 in Gazette of India, 1956, Part II—Sec. 3, p. 1394.

**2. Definitions.**—In these rules, unless the context otherwise requires—

(a) "Act" means the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955);

(b) "Chairman" means the Chairman of the Board; and

(c) "Member" means a member of the Board.

**3. Meetings.**—The Board shall, subject to the provisions of rule 4, meet at such date, time and place as may be appointed by the Chairman from time to time:

Provided that on a requisition in writing signed by not less than three members, the Chairman shall, within fifteen days from the date of receipt of such requisition, call a meeting of the Board.

**4. Notice of meetings.**—Not less than ten days before the date fixed for every ordinary meeting of the Board, a notice containing the date, time and place of the meeting, together with a list of business to be conducted at the meeting, shall be sent to every member, by registered post, by the Secretary to the Board or by any other officer authorised by the Chairman in this behalf.

Provided that when the Chairman calls a meeting for considering any matter which in his opinion is urgent, a notice of five days from the date of its issue shall be sufficient.

**5. Chairman to preside at meetings.**—The Chairman shall preside at every meeting of the Board.

**6. Quorum.**—(1) No business shall be transacted at any meeting of the Board unless at least four members are present.

(2) If at any meeting the number of members is less than the quorum the Chairman shall adjourn the meeting to a date not later than five days from the date of the original meeting, informing the members of the date, time and place of the adjourned meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present at the meeting:

Provided that at such an adjourned meeting only such business shall be transacted as was originally proposed to be transacted at the meeting which had to be adjourned for lack of quorum.

**7. Proceedings before the Board.**—The proceedings before the Board shall ordinarily be open to the public:

Provided that the Board may at any stage direct that any witness shall be examined, or its proceedings shall be held, in camera.

**8. Disposal of business.**—Every question considered at a meeting of the Board shall be decided by a majority of the votes of the members present and voting. In the event of equality of votes, the Chairman shall have a casting vote:

Provided that the Chairman may, if he thinks fit, direct that any matter shall be decided by circulation of the necessary papers to the members present in India and by securing their opinion in writing:

Provided further that no decision on any matter under the preceding proviso shall be taken unless it is supported by not less than two-thirds majority of the total members.

**9. Minutes of the proceedings.**—(1) The minutes of a meeting of the Board shall be recorded and a copy of the minutes shall be sent to each member by the Chairman.

(2) The Chairman may correct any clerical error or mistake in any order or decision made by the Board.

**10. Signing of the report.**—The decision of the Board fixing rates of wages shall be signed by all the members of the Board whether present at its meetings or not but no such decision shall be invalidated merely for want of any such signature.

**11. Summoning of witnesses and production of documents.**—(1) The Board may summon any person to appear as a witness in the course of any inquiry by the Board. Such summons may require the witness to appear before it on a date specified therein and to produce any books, papers or other documents and information in his possession or under his control relating in any manner to the inquiry.

(2) A summons under sub-rule (1) may be addressed to an individual or an organisation of employers or a trade union of working journalists or other workmen as the Chairman may think fit.

(3) A summons under this rule may be served—(a) in the case of an individual, by being delivered or sent to him by registered post; and (b) in the case of an employers' organisation or trade union of working journalists, by being delivered or sent by registered

post to the secretary or other principal officer of the organisation or union, as the case may be.

12. **Expenses of witnesses.**—Every person who is summoned and appears before the Board shall be paid by the Board such sum of money as appears to the Chairman to be sufficient to defray the travelling and other expenses incurred by the person so summoned in passing to and from the place where he is required to attend.

13. **Resignation.**—(1) The Chairman or any member may at any time by writing under his hand addressed to the Central Government resign his office or membership, as the case may be. The seat held by the Chairman or the member, as the case may be, shall be deemed to have fallen vacant with effect from the date the resignation of the Chairman or the member is accepted by the Central Government.

(2) When a vacancy arises in the office of the Chairman or in the membership of the Board, the Central Government shall take immediate steps to fill the vacancy in accordance with the Act and the proceedings may be continued before the Board so reconstituted from the stage at which the vacancy is so filled.

14. **Absence from three consecutive meetings.**—If a member of the Board remains absent from three consecutive meetings (not including adjourned meetings) without the permission of the Board, the Chairman shall inform the Central Government. The Central Government thereupon may declare the seat held by the said member as having fallen vacant and take steps to fill the vacancy so caused as if such member has resigned his membership.

15. **Acts of the Board not invalid by reason of defect in its constitution, etc.**—No act or proceeding of the Board shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Board.

16. **Manner in which the decision of the Board may be published.**—Every decision of the Board fixing rates of wages shall be published by the Central Government by a notification in the Official Gazette.

## MADRAS COMPULSORY LABOUR ACT, 1858 (I OF 1858)

### Arrangement of Sections

#### PREAMBLE.

1. Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.
2. Punishment for refusing or neglecting to comply with such call.
3. Rate of remuneration.
4. Mode of payment: Recovery of advances from private persons.
5. Requisition for the supply of materials, etc., from villagers.
6. Liability of persons refusing to contribute labour to the maintenance of irrigation and drainage work.
7. Mode of determining amount payable.
8. Recovery.
9. Appropriation.

## MADRAS COMPULSORY LABOUR ACT, 1858 (I OF 1858)<sup>1</sup>

*An Act to make lawful compulsory labour for the prevention of mischief by inundation and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.*

[20th January, 1858.]

#### PREAMBLE:

Whereas the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers and canals, and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons\* \* \* when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly; and whereas it is expedient to make legal provision for the

<sup>1</sup> Short title given by the Amending Act, 1901 (II of 1901). This Act was declared by the Laws Local Extent Act, 1874 (XV of 1874), s. 4 and Sch. II, to be in force on the whole of Madras except the Scheduled Districts.

<sup>2</sup> The words "of the labouring class" omitted by the A.O. 1950.

enforcement of the duty, which by local custom is incumbent on village communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage. It is enacted as follows:

1. **Labourers may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.**—Whenever it shall appear to the officer in charge of any tank, river or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of <sup>3</sup>[persons] immediately working together to strengthen the embankment or other work, or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of <sup>3</sup>[persons] for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons<sup>2</sup>\* \* \* in such village or villages to co-operate in the work necessary for preventing or repairing the breach as the case may be.

In the absence of the said officer, it shall be lawful for the tahsildar of the taluq to make such requisition in his stead.

And if neither the said officer nor the tahsildar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, on his own motion, to call upon <sup>4</sup>[all able-bodied male persons of his own village] and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon <sup>4</sup>[the able-bodied male persons of their villages] to co-operate in the work necessary for preventing or repairing the breach.

2. **Punishment for refusing or neglecting to comply with such call.**—Any male person<sup>2</sup>\* \* \* being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month or with both.

3. **Rate of remuneration.**—Every person who shall be employed on such work, under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work and, if he is required to work at night, at double such rate.

4. **Mode of payment: Recovery of advances from private persons.**—Payment shall be made to <sup>5</sup>[such persons] from the public treasury and if <sup>6</sup>[they] shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land revenue.

5. **Requisition for the supply of materials, etc., from villagers.**—It shall be lawful for heads of villages, on the requisition of the officer in charge of such work, as aforesaid, or in his absence on the requisition of the tahsildar or in case of emergency when neither such officer nor the tahsildar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, earth, stone, trees and leaves, bamboos, straw, gunny bags and the like, necessary for preventing or repairing breaches in the embankments of tank, river and canals, and to remove or seize and, if necessary, to cut down such materials wherever they may be found, giving receipts for them in writing; such materials shall be paid for from the public treasury at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting down of any such materials, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under section 6. When the work for which such articles are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land-revenue are recoverable.

<sup>7</sup>[6. **Liability of persons refusing to contribute labour to the maintenance of irrigation and drainage works.**—(1) Every person owning lands served by any irrigation or

<sup>3</sup> Subs. for the word "labourers" by the A.O. 1950.

<sup>4</sup> Subs. by the Madras Compulsory Labour (Amendment) Act, 1935 (Madras Act IX of 1935).

<sup>5</sup> Subs. for the words "the labourers" by the A.O. 1950.

<sup>6</sup> Subs. for the word "labourers", *ibid*.

<sup>7</sup> Subs. for the original section by the Madras Compulsory Labour (Amendment) Act, 1956 (Madras Act VIII of 1956).

drainage work or any work connected therewith shall, whenever required by public notice by the head of the village under the orders of the tahsildar or other superior revenue officer, contribute labour for repairing or properly maintaining such irrigation or drainage work or for repairing or properly maintaining any work connected with such irrigation or drainage work.

(2) Every public notice given under sub-section (1) shall be in writing over the signature of the head of the village, shall contain the names of the persons bound to contribute the labour together with such other particulars as may be necessary to identify them, and the period or periods during which the labour should be contributed and shall be widely made known in the village by affixing copies thereof in conspicuous public places within the village, or by publishing the same by beat of drum and by any other means that the head of the village may think fit. Every such notice shall also be published by affixture in the notice board of the offices of the tahsildar or other revenue officer under whose orders the notice was given.

(3) Any person required to contribute labour in pursuance of a notice given under sub-section (1) may in lieu of such labour, pay such sum and within such time as may be specified in that behalf by a general or special order of the tahsildar or other revenue officer referred to in sub-section (1). The amount so payable shall, in case of dispute, be determined summarily by the collector.

(4) If any person who is bound to contribute labour in pursuance of a notice given under sub-section (1) neglects or refuses to contribute labour during the period specified in that notice or fails to pay the value of the labour under sub-section (3) it shall be lawful for the head of the village under the orders of the tahsildar or other revenue officer referred to in sub-section (1) to proceed at once to execute the work by employing some other person and all the expenses incurred in respect thereof together with a sum equal to the value of the labour not contributed shall be borne by the person so neglecting or refusing to contribute or failing to pay.

(5) Where there are a number of persons liable to pay under the preceding sub-section, the tahsildar or other revenue officer under whose orders the notice was given under sub-section (1) shall, after such enquiry as he may deem necessary, apportion such expenses among the persons who are, as aforesaid, liable to bear the same and also determine the value of the labour not contributed. Such liability shall, as far as practicable, be apportioned among such persons in proportion to the extent of the lands actually served by the irrigation or drainage work or other work in connection with which the contribution of labour was required.

(6) All sums due under this section shall be payable on demand; and, on non-payment, the same may be recovered by the same means by which arrears of land revenue are recoverable.]

7. **Mode of determining amount payable.**—The amount so payable shall, in case of dispute be determined summarily by a village\* \* panchayat assembled by order of the collector through the village\* \* munsif according to the rules for assembling such panchayats prescribed in Regulations V and VII of 1816<sup>a</sup>.

8. **Recovery.**—Such amount shall be payable on demand; and, on non-payment, the same may be recovered by the same means by which arrears of the land-revenue are recoverable.

9. **Appropriation.**—All sums paid or recovered under this section shall be applicable to the expenses of any work for the purpose of irrigation or drainage executed for the benefit of the village-communities to which the defaulters respectively belong.

## TERRITORIAL ARMY ACT, 1948 (LVI OF 1948) (EXTRACTS)

### Arrangement of Sections

1. Short title, extent and application.

7A. Re-instatement in civil employ of persons required to perform military service.

7B. Preservation of certain rights of persons required to perform military service.

14. Power to make rules.

<sup>a</sup> The words "or District" rep. by the Repealing Act, 1874 (XVI of 1874.)

<sup>b</sup> Madras Regulations V of 1816 rep. by Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920) and Madras Regulations VII of 1816 rep. by the Repealing Act, 1874 (XVI of 1874.)



# TERRITORIAL ARMY ACT, 1948 (LVI OF 1948) (EXTRACTS)

*An Act to provide for the constitution of a Territorial Army.*

[10th September, 1948]

Whereas it is expedient to provide for the constitution of a Territorial Army:

It is hereby enacted as follows:—

1. **Short title, extent and application.**—(1) This Act may be called the Territorial Army Act, 1948.

(2) It extends to the whole of India<sup>1</sup> \* \* \* and applies to all classes of persons in the Territorial Army, wherever they may be.

<sup>2</sup>[7A. **Re-instatement in civil employ of persons required to perform military service.**—

(1) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to re-instate him in his employment on the termination of the military service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Provided that if the employer refuses to re-instate such person or denies his liability to re-instate such person, or if for any reason re-instatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as he thinks suitable, or

(c) requiring him to pay such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for re-instatement within a period of two months from the termination of his military service.

<sup>1</sup> Certain words omitted by Part B State (Laws) Act, 1951 (3 of 1951), 5 and 3 Sch.

<sup>2</sup> Ins. by the Territorial Army (Amendment) Act, 1952 (33 of 1952), s. 2. Statement of Objects and Reasons of the Amending Act—The Territorial Army Act, 1948, does not at present contain any provision affording protection in civil employment to those who join the Territorial Army, with the result that some private employers have found it possible to refuse to allow their employees to retain a lien on their appointments while on duty with the Territorial Army. These difficulties were foreseen when the Territorial Army Act was enacted, but it was hoped at the time that employers would generally co-operate with Government in this national effort and voluntarily ensure that no person suffers either financially or otherwise by joining the Territorial Army.

2. Although many employers have treated their employees fairly, even generously, in this matter, experience has shown that there are many others who are not willing to act likewise. It has therefore become expedient to amend the Territorial Army Act to impose a statutory liability on the employers to afford necessary protection in civil employment to members of the Territorial Army and the proposed legislation seeks to achieve this purpose (Gazette of India, 1952, Part II—Sec. 2, p. 72.)

(4) The duty imposed by sub-section (1) upon an employer to re-instate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually required to perform military service under section 7, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of orders requiring him to perform military service under this Act.

**7B. Preservation of certain rights of persons required to perform military service.**—When any person required to perform military service under section 7 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in military service and if he is re-instated, until such re-instatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.]

**14. Power to make rules.**—(1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

<sup>3</sup>[(dd) specify the authority for the purpose of the proviso to sub-section (1) of section 7A and the manner in which any inquiry may be held by him;

(ddd) define the rights under section 7B;]

## TERRITORIAL ARMY RULES, 1948 (EXTRACTS)

### Arrangement of Paragraphs

#### PART VIII—RE-INSTATEMENT AFTER COMPLETION OF MILITARY SERVICE

- 35. Prescribed authority under section 7A.
- 36. Nature of inquiry by prescribed authority.
- 37. Prescribed rights under section 7B.

## TERRITORIAL ARMY RULES, 1948 (EXTRACTS)

#### <sup>1</sup>[PART VIII—RE-INSTATEMENT AFTER COMPLETION OF MILITARY SERVICE

**35. Prescribed authority under section 7A.**—The prescribed authority referred to in the proviso to sub-section (1) of section 7A, shall (a) in respect of any area within the presidency town of Bombay, Calcutta or Madras, be the Chief Judge of the Court of Small Causes within the local limits of whose jurisdiction, the person claiming re-instatement was employed immediately before he was required to perform military service under section 7; and (b) in respect of any other area, be the District and Sessions Judge within the limits of whose jurisdiction such person was employed.

**36. Nature of inquiry by prescribed authority.**—Where a reference is made by any party under the proviso to sub-section (1) of section 7A to the authority referred to in rule 35, a copy of such reference shall be served upon the opposite party and the said authority shall decide the matter after giving both the parties a reasonable opportunity of being heard and after making such further inquiry, if any, as it thinks fit.

**37. Prescribed rights under section 7B.**—When any person subject to the Act is required to perform military service under section 7—(a) he may, at his option, continue to subscribe to any provident or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment which he relinquished immediately before he was called out, embodied or attached for military service, at

<sup>3</sup> Ins. by the Territorial Army (Amendment) Act, 1952 (33 of 1952), s. 3.

<sup>1</sup> Published under Notification No. S.R.O. TAR/AM(1)/54 dated the 22nd Feb., 1955.

such rate or rates as were applicable to him under the rules of such fund or scheme; (b) the employer by whom such person was employed shall continue to credit such person's account in the fund or scheme with the amount subscribed and the interest on the amount in such account in accordance with the rules of the fund or scheme, and (c) such person may, if the rules of the fund or scheme so permit and in accordance with such rules, withdraw sums from the amount standing at his credit in the fund or scheme; and for the purpose of calculating the amount of contribution or withdrawal admissible, such person's salary shall be deemed to be the salary which he would have received had he not been so called out, embodied or attached.]

## RESERVE AND AUXILIARY AIR FORCES ACT, 1952 (LXII OF 1952)

### (EXTRACTS)

#### Statement of Objects and Reasons<sup>1</sup>

Provision is made requiring civil employers to grant any enrolled person such leave as may be necessary and to have him re-instated into civil employment after the termination of the period during which he has been called out.

## RESERVE AND AUXILIARY AIR FORCES ACT, 1952 (LXII OF 1952) (EXTRACTS)

### Arrangement of Sections

#### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.

#### CHAPTER VI—MISCELLANEOUS

27. Re-instatement in civil employ of persons required to perform service under this Act.
28. Preservation of certain rights of persons called up for service.
29. Pay and allowances.

## RESERVE AND AUXILIARY AIR FORCES ACT, 1952 (LXII OF 1952) (EXTRACTS)<sup>2</sup>

*An Act to provide for the constitution and regulation of certain Air Force Reserves and also an Auxiliary Air Force and for matters connected therewith.*

[22nd August, 1952]

Be it enacted by Parliament as follows:—

#### CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Reserve and Auxiliary Air Forces Act, 1952.

- (2) It extends to the whole of India.

- (3) This Chapter shall come into force at once, and the remaining provisions shall come into force on such date<sup>3</sup> as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

<sup>1</sup> Gazette of India, 1952, Part II—Sec. 2, page 177.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1952, Part II—Sec. 2, p. 177, see also above.

<sup>3</sup> Chapter VI was brought into force on 15th August, 1955, vide Notification No. S.R. (1) 322 dated 20th August, 1955 in Gazette of India, 1955, Part II—Sec. 4, p. 189.

## CHAPTER VI—MISCELLANEOUS

**27. Re-instatement in civil employ of persons required to perform service under this Act.**—(1) It shall be the duty of every employer by whom a person called up under section 25<sup>4</sup> is employed to grant him such leave as may be necessary and to re-instate him in his employment on the termination of the period during which he has been so called up in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called up:

Provided that if the employer refuses to re-instate such person or denies his liability to re-instate such person, or if for any reason the re-instatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before him and after making such further inquiry into the matter as may be prescribed, pass an order—(a) exempting the employer from the provisions of this section, or (b) requiring him to re-employ such person on such terms as that authority thinks suitable, or (c) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for re-instatement within a period of two months from the termination of the period during which he was called up under section 25.

(4) The duty imposed by sub-section (1) upon an employer to grant leave to a person such as is described in that sub-section or to re-instate him in his employment shall attach to an employer who, before such person is actually called up under section 25, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 25<sup>4</sup>.

**28. Preservation of certain rights of persons called up for service.**—When any person called up under section 25<sup>4</sup> has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, during the period for which he has been so called up and if he is re-instated, until such re-instatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

**29. Pay and allowances.**—(1) Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of training or active service, receive such pay and allowances as are admissible to an officer or airman, as the case may be, in the corresponding rank, branch or trade of the Air Force.

(2) Where any such member was in any employment immediately before he is called up for training under section 25<sup>4</sup>, the employer shall, during the period of the training, be liable to pay to him the difference, if any, between the pay and allowances which he would have received from the employer if he had not been called up for such training and the pay and allowances which he receives as such member while under training.

(3) If any employer refuses or fails to pay to any such member the difference in pay and allowances as provided in sub-section (2), such difference in pay and allowances may, on application by the member to the prescribed authority, be recovered from the employer in such manner as may be prescribed.

**33. Power of Central Government to grant exemptions.**—The Central Government may, for special reasons and subject to such conditions as may be prescribed, by order exempt any person from any obligation or liability under this Act or any particular provision thereof.

<sup>4</sup> Section 25 refers to the liability of every member of an Air Force Reserve or the Auxiliary Air Force to be called up for service.

# ESSENTIAL SERVICES (MAINTENANCE) ORDINANCE, 1941 (XI OF 1941)

## Arrangement of Paragraphs

1. Short title, extent and commencement.
2. Interpretation.
3. Employment to which this Ordinance applies.
4. Power to order persons engaged in certain employments to remain in specified areas.
5. Offences.
6. Regulation of wages and conditions of service.
7. Penalties and Procedure
8. Bar of legal proceedings.
9. Saving of effect of laws imposing liability to national service.

# ESSENTIAL SERVICES (MAINTENANCE) ORDINANCE, 1941 (XI OF 1941)<sup>1</sup>

*An Ordinance to make provision for the maintenance of certain essential services.*

WHEREAS an emergency has arisen which renders it necessary to make provision for the maintenance of certain essential services;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, Ch. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

**1. Short title, extent and commencement.**—(1) This Ordinance may be called the Essential Services (Maintenance) Ordinance, 1941.

(2) It extends to the whole of <sup>2</sup>[India.]

(3) It shall come into force at once.

**2. Interpretation.**—In this Ordinance, unless there is anything repugnant in the subject or context, “employment” includes employment of any nature and whether paid or unpaid.

**3. Employment to which this Ordinance applies.**—This Ordinance shall apply to all employment under the Crown and to any employment or class of employment which the Central Government or a Provincial Government, being of opinion that such employment or class of employment is essential for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies or services necessary to the life of the community, may, by notification in the official Gazette, declare to be an employment or class of employment to which this Ordinance applies.

**4. Power to order persons engaged in certain employments to remain in specified areas.**—(1) <sup>3</sup>[In respect of any employment under the Crown, the Government under which the person or persons concerned are employed or an officer authorized in this behalf by that Government, and] in respect of any employment or class of employment declared under section 3 to be an employment or class of employment to which this Ordinance applies, the Government making the declaration, or an officer authorised in this behalf by that Government, may, by general or special order, direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

(2) An order made under sub-section (1) shall be published in such manner as the Government or officer making the order considers best calculated to bring it to the notice of the persons affected by the order.

**5. Offences.**—Any person engaged in any employment or class of employment to which this Ordinance applies who—(a) disobeys any lawful order given to him in the course of such employment, or (b) without reasonable excuse abandons such employment or absents himself from work, or (c) departs from any area specified in an order under sub-section (1) of section 4 without the consent of the authority making that order, and any employer of a person engaged in an employment or class of employment declared

<sup>1</sup> The Ordinance, promulgated on 20th Dec., 1941, is still in force, vide Section 1 (3) of the India and Burma (Emergency Provisions) Act, 1940 (3 & 4 Geo. Ch. 33).

<sup>2</sup> Subs. for the words “British India” by the A.O. 1948.

<sup>3</sup> Ins. by Ordinance XXVI of 1942, s. 2.

under section 3 to be an employment or class of employment to which this Ordinance applies, who without reasonable cause—(i) discontinues the employment of such person, or (ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment, is guilty of an offence under this Ordinance.

<sup>4</sup>[*Explanation 1.*—The fact that a person apprehends that by continuing in his employment, he will be exposed to increased physical danger is not a reasonable excuse within the meaning of clause (b)].

<sup>4</sup>[*Explanation 2.*—A person abandons his employment within the meaning of clause (b) who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.]

**6. Regulation of wages and conditions of service.**—(1) The Central Government or, \* \* \* a Provincial Government may make rules regulating or empowering a specified authority to regulate the wages and other conditions of service of persons or of any class of persons engaged in any employment or class of employment declared under section 3 to be an employment or class of employment to which this Ordinance applies.

(2) When any such rules have been made or when any directions regulating wages or conditions of service have been given by an authority empowered by such rules to give them, any person failing to comply therewith is guilty of an offence under this Ordinance.

**7. Penalties and procedure.**—(1) Any person found guilty of an offence under this Ordinance shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) Where the person accused of an offence under this Ordinance is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

(3) No Court shall take cognizance of any offence under this Ordinance except upon complaint in writing made by a <sup>6</sup>[servant of the Crown] authorised in this behalf by the Central or a Provincial Government.

<sup>7</sup>[(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), an offence under this Ordinance shall be cognizable.]

**8. Bar of legal proceedings.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance or the rules made thereunder.

**9.** <sup>8</sup>[*Saving of effect of laws imposing liability to national service.*—Nothing contained in this Ordinance or in any declaration or order made thereunder shall have effect in derogation of any provision of law for the time being in force imposing upon a person engaged in an employment or class of employment to which this Ordinance applies any liability to be called up for national service or to undertake employment in the national service.]

## INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951 (LXV OF 1951)

### Statement of Objects and Reasons

The object of this Bill is to provide the Central Government with the means of implementing their industrial policy which was announced in their Resolution No. I (3)-44 (13) 48 dated 6th April 1948 and approved by the Central Legislature. The Bill brings under Central control the development and regulation of a number of important industries the activities of which affect the country as a whole and the development of which must be

<sup>4</sup> The explanation added by Ordinance XXVI of 1942, s. 3.

<sup>5</sup> The words "with the previous sanction of the Central Government, deleted, *ibid.*, s. 4.

<sup>6</sup> Substituted for the word 'person' by Ordinance II of 1943, s. 2.

<sup>7</sup> Added by Ordinance XXVI of 1942, s. 5.

<sup>8</sup> Subs. for the words "Effect of order, rule, etc., made under the Ordinance—Any declaration, order, rule or regulation made and any direction given under this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any Act, Regulation or Ordinance" by Ordinance XXXVIII of 1942, s. 2.

governed by economic factors of all India import. The planning of future development on sound and balanced lines is sought to be secured by the licensing of all new undertakings by the Central Government. The Bill confers on Government power to make rules for the registration of existing undertakings, for regulating the production and development of the industries in the Schedule and for consultation with Provincial Governments on these matters. Provision has also been made for the constitution of a Central Advisory Council, prior consultation with which will be obligatory before the Central Government takes certain measures such as the revocation of a licence or taking over the control and management of any industrial concern.<sup>1</sup>

## INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 1953 (XXVI OF 1953)

### Statement of Objects and Reasons<sup>2</sup>

The Industries (Development and Regulation) Act, 1951, came into force on the 8th May, 1952. In the course of the working of this Act, certain practical difficulties have come to light.

2. Some of those difficulties are:—

(a) the period allowed under section 10 of the Act for the registration of undertakings has not been found to be adequate in actual practice, and therefore requires to be extended;

(b) while powers are available in the existing Act to revoke licences in certain cases, no such powers are available for the revocation of registration where it is necessary to do so;

(c) the provisions relating to licensing are not complete inasmuch as they do not apply to—(i) industrial undertakings which though required to be registered are not registered within the time limited for the purpose; (ii) industrial undertakings which, though not registrable at the commencement of the Act, become registrable subsequently by reason of the definitions in the Act becoming applicable thereto; (iii) industrial undertakings proposing to change their location; (iv) industrial undertakings proposing to take up the manufacture of goods of new brands (and types) within the same scheduled industry or of goods pertaining to any other scheduled industry, without any additional plant and machinery or factory buildings;

(d) the explanation of the term "substantial expansion" is not free from ambiguity;

(e) Government cannot take over the management of any industrial undertaking, even in a situation calling for emergent action, without first issuing directions to it and waiting to see whether or not they are obeyed;

(f) the law, as it stands, does not deal in any detail with the consequences of Government taking over the management of an undertaking;

(g) certain items in the First Schedule are not sufficiently descriptive so as to include all important sections of the industries concerned.

The object of the Bill is mainly to remove such difficulties.

3. At present, the power to control prices and distribution of various goods under this Act is confined to industrial undertakings registered or licensed under the Act. In all other cases, it is necessary to have recourse to powers derived from the Essential Supplies (Temporary Powers) Act, 1946 and the Supply and Prices of Goods Act, 1950. Both these enactments have a limited period of life. It is proposed to add a chapter taking power to control the distribution and price of goods produced in scheduled industries and of similar goods even though they may be of imported origin.

4. Opportunity is also taken to remove a doubt which may arise by reason of the phraseology of section 4 which says that nothing in the Act shall apply to industrial undertakings of which the capital invested does not exceed rupees one lakh. This provision is liable to be misconstrued to mean that even the declaration contained in section 2 is inapplicable to such undertakings. It is also difficult to define "capital invested" suitably for the purpose of the Act. It is, therefore, proposed to omit section 4, and wherever necessary, exemptions would be granted under the new section 28 to any undertakings or scheduled industries. Incidentally, six more important industries, namely, the silk, the artificial silk, the dye-stuff, the soap, the plywood and the ferromanganese industries are being added to the Schedule.

<sup>1</sup> Gazette of India, 1949, Part V, page 156. The Bill was introduced as Industries (Development and Control) Bill, 1949. The First Select Committee inserted the word "Regulation" in place of "Control".

<sup>2</sup> Gazette of India, 1953, Part II—Sec. 2, pp. 286-288.

# INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951 (LXV OF 1951)

## Arrangement of Sections

### CHAPTER I—PRELIMINARY

1. Short title, extent and commencement.
2. Declaration as to expediency of control by the Union.
3. Definitions.
4. [*Repealed.*]

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# INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951 (LXV OF 1951)<sup>1</sup>

*An Act to provide for the development and regulation of certain industries.*

[31st October, 1951]

Be it enacted by Parliament as follows:—

## CHAPTER I—PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Industries (Development and Regulation) Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date<sup>2</sup> as the Central Government may, by notification in the official Gazette, appoint.

**2. Declaration as to expediency of control by the Union.**—It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule.

**3. Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Advisory Council" means the Central Advisory Council established under section 5;

(b) "Development Council" means a Development Council established under section 6;

<sup>3</sup>[(bb) "existing industrial undertaking" means—

(a) in the case of an industrial undertaking pertaining to any of the industries specified in the First Schedule as originally enacted, an industrial undertaking which was in existence on the commencement of this Act or for the establishment of which effective steps had been taken before such commencement. and

(b) in the case of an industrial undertaking pertaining to any of the industries added to the First Schedule by an amendment thereof, an industrial undertaking which is in existence on the coming into force of such amendment or for the establishment of which effective steps had been taken before the coming into force of such amendment;]

(c) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on—(i) with the aid of power, provided that fifty or more workers are working or were working thereon on any day of the preceding twelve months; or, (ii) without the aid of power, provided that one hundred or more workers are working or were working thereon on any day of the preceding twelve months and provided further that in no part of such premises any manufacturing process is being carried on with the aid of power;

(d) "industrial undertaking" means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government;

<sup>4</sup>[(dd) "new article", in relation to an industrial undertaking which is registered or in respect of which a licence or permission has been issued under this Act, means—

(a) any article which falls under an item in the First Schedule other than the item under which articles ordinarily manufactured or produced in the industrial undertaking at the date of registration or issue of the licence or permission, as the case may be, fall;

(b) any article which bears a mark as defined in the Trade Marks Act, 1940 (V of 1940), or which is the subject of a patent, if at the date of registration or issue of the licence or permission, as the case may be, the industrial undertaking was not manufacturing or producing such article bearing that mark or which is the subject of that patent.]

(e) "notified order" means an order notified in the Official Gazette;

(f) "owner" in relation to an industrial undertaking, means the person who, or the authority which, has the ultimate control over the affairs of the undertaking, and, where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the undertaking.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1949, Part V, p. 156; see also p. 1427 ante; and for Report of Select Committee, see *ibid.* 1950, Pt. V, p. 103, and *ibid.* 1951, Pt. II—Section 2, p. 709. The Act was amended in 1953 and 1956.

<sup>2</sup> 8th May, 1952, *vide* Notification No. S.R.O. 811 dated the 8th May, 1952 in Gazette of India Extraordinary, 1952, Pt. II—Section 3, p. 539.

<sup>3</sup> Ins. by Act 26 of 1953, s. 2.

<sup>4</sup> Ins., *ibid.*, s. 2.

- (g) "prescribed" means prescribed by rules made under this Act;  
 (h) "Schedule" means a Schedule to this Act;  
 (i) "scheduled industry" means any of the industries specified in the First Schedule.
4. [Saving.] *Repealed by the Industries (Development and Regulation) Amendment Act, 1953 (26 of 1953), s. 3.*

## CHAPTER II—THE CENTRAL ADVISORY COUNCIL AND DEVELOPMENT COUNCILS

### 5. Establishment and constitution of Central Advisory Council and its functions.—

(1) For the purpose of advising it on matters concerning the development and regulation of scheduled industries, the Central Government may, by notified order, establish a Council to be called the Central Advisory Council.

(2) The Advisory Council shall consist of a Chairman and such other members, not exceeding thirty in number, all of whom shall be appointed by the Central Government from among persons who are in its opinion capable of representing the interests of—(a) owners of industrial undertakings in scheduled industries; (b) persons employed in industrial undertakings in scheduled industries; (c) consumers of goods manufactured or produced by scheduled industries; (d) such other class of persons including primary producers, as in the opinion of the Central Government, ought to be represented on the Advisory Council.

(3) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, members of the Advisory Council, shall be such as may be prescribed.

(4) The Central Government shall consult the Advisory Council in regard to—

(a) the making of any rules, other than the first rules to be made under sub-section (3);

\* \* \* \* \*

and may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council.

### 6. Establishment and constitution of Development Councils and their functions.—

(1) The Central Government may, by notified order, establish for any scheduled industry or group of scheduled industries, a body of persons to be called a Development Council which shall consist of members who in the opinion of the Central Government are—(a) persons capable of representing the interest of owners of industrial undertakings in the scheduled industry or group of scheduled industries; (b) persons having special knowledge of matters relating to the technical or other aspects of the scheduled industry or group of scheduled industries; (c) persons capable of representing the interests of persons employed in industrial undertakings in the scheduled industry or group of scheduled industries; (d) persons not belonging to any of the aforesaid categories, who are capable of representing the interests of consumers of goods manufactured or produced by the scheduled industry or group of scheduled industries.

(2) The number and the term of office of, and the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among members of a Development Council shall be such as may be prescribed.

(3) Every Development Council shall be, by virtue of this Act, a body corporate by such name as may be specified in the notified order establishing it, and may hold and transfer property and shall by the said name sue and be sued.

(4) A Development Council shall perform such functions of a kind specified in the Second Schedule as may be assigned to it by the Central Government and for whose exercise by the Development Council it appears to the Central Government expedient to provide in order to increase the efficiency or productivity in the scheduled industry or group of scheduled industries for which the Development Council is established, to improve or develop the service that such industry or group of industries renders or could render to the community, or to enable such industry or group of industries to render such service more economically.

(5) A Development Council shall also perform such other functions as it may be required to perform by or under any other provision of this Act.

7. **Reports and Accounts of Development Councils.**—(1) A Development Council shall prepare and transmit to the Central Government and the Advisory Council, annually, a report setting out what has been done in the discharge of its functions during the financial year last completed.

\* Cl. (b) omitted by Act 26 of 1953, s. 4.

(2) The report shall include a statement of the accounts of the Development Council for that year, and shall be transmitted as soon as accounts therefor have been audited, together with a copy of any report made by the auditors on the accounts.

(3) The statement of account shall be in such form as may be prescribed, being a form which shall conform to the best commercial standards, and the statement shall show the total of remuneration and allowances paid during the year to members and officers of the Council.

(4) A copy of each such report of a Development Council, or made by the auditors on its accounts, shall be laid before Parliament by the Central Government.

**8. Dissolution of Development Councils.**—(1) The Central Government may, if it is satisfied that a Development Council should cease to continue in being, by notified order, dissolve that Development Council.

(2) On the dissolution of a Development Council under sub-section (1), the assets of the Development Council, after its liabilities, if any, are met therefrom, shall vest in the Central Government for the purposes of this Act.

**9. Imposition of cess on scheduled industries in certain cases.**—(1) There may be levied and collected as a cess for the purposes of this Act on all goods manufactured or produced in any such scheduled industry as may be specified in this behalf by the Central Government by notified order a duty of excise at such rate as may be specified in the notified order, and different rates may be specified for different goods or different classes of goods;

Provided that no such rate shall in any case exceed two annas per cent. of the value of the goods.

*Explanation.*—In this sub-section, the expression "value" in relation to any goods shall be deemed to be the wholesale cash price for which such goods of the like kind and quality are sold or are capable of being sold for delivery at the place of manufacture and at the time of their removal therefrom, without any abatement or deduction whatever except trade discount and the amount of duty then payable.

(2) The cess shall be payable at such intervals, within such time and in such manner as may be prescribed, and any rules made in this behalf may provide for the grant of a rebate for prompt payment of the cess.

(3) The said cess may be recovered in the same manner as an arrear of land revenue.

(4) The Central Government may hand over the proceeds of the cess collected under this section in respect of the goods manufactured or produced by any scheduled industry or group of scheduled industries to the Development Council established for that industry or group of industries, and where it does so, the Development Council shall utilise the said proceeds—(a) to promote scientific and industrial research with reference to the scheduled industry or group of scheduled industries in respect of which the Development Council is established; (b) to promote improvements in design and quality with reference to the products of such industry or group of industries; (c) to provide for the training of technicians and labour in such industry or group of industries; (d) to meet such expenses in the exercise of its functions and its administrative expenses as may be prescribed.

### CHAPTER III—REGULATION OF SCHEDULED INDUSTRIES

**10. Registration of existing industrial undertakings.**—(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within such period as the Central Government may, by notification in the Official Gazette, fix in this behalf with respect to industrial undertakings generally or with respect to any class of them, register the undertaking in the prescribed manner.

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which it is the owner.

<sup>7</sup>[(3) Where an industrial undertaking is registered under this section, there shall be issued to the owner of the undertaking or the Central Government, as the case may be, a certificate of registration containing such particulars as may be prescribed.]

**10A. Revocation of registration in certain cases.**—If the Central Government is satisfied that the registration of any industrial undertaking has been obtained by misrepresentation as to an essential fact or that any industrial undertaking has ceased to be regis-

<sup>6</sup> Subs. by Act 26 of 1953, s. 5.

<sup>7</sup> Ins., *ibid.*

<sup>8</sup> Ins., *ibid.*, s. 6.

trale under this Act by reason of any exemption granted under this Act becoming applicable thereto or that for any other reason the registration has become useless or ineffective and therefore requires to be revoked, the Central Government may after giving an opportunity to the owner of the undertaking to be heard revoke the registration.]

**11. Licensing of new industrial undertakings.**—(1) No person or authority other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Central Government.

Provided that a Government other than the Central Government may, with the previous permission of the Central Government, establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size to be provided therein as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 30.

<sup>9</sup>[11A. Licence for producing or manufacturing new articles.—The owner of an industrial undertaking not being the Central Government which is registered under section 10 or in respect of which a licence or permission has been issued under section 11 shall not produce or manufacture any new article unless—(a) in the case of an industrial undertaking registered under section 10, he has obtained a licence for producing or manufacturing such new article; and (b) in the case of an industrial undertaking in respect of which a licence or permission has been issued under section 11, he has had the existing licence or permission amended in the prescribed manner]

**12. Revocation and amendment of licences in certain cases.**—(1) If the Central Government is satisfied, either on a reference made to it in this behalf or otherwise, that any person or authority, to whom or to which, a licence has been issued under section 11, has, without reasonable cause, failed to establish or to take effective steps to establish the new industrial undertaking in respect of which the licence has been issued within the time specified therefor or within such extended time as the Central Government may think fit to grant in any case, it may revoke the licence.

(2) Subject to any rules that may be made in this behalf, the Central Government may also vary or amend any licence issued under section 11.

Provided that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking in accordance with the licence issued in this behalf.

<sup>10</sup>[(3) The provisions of this section shall apply in relation to a licence issued under section 11A or where a licence has been amended under that section, to the amendment thereof, as they apply in relation to a licence under section 11.]

**11[13. Further provision for licensing of industrial undertakings in special cases.**—(1) No owner of an industrial undertaking, other than the Central Government, shall (a) in the case of an industrial undertaking required to be registered under section 10, but which has not been registered within the time fixed for the purpose under that section, carry on the business of that undertaking after the expiry of such period, or (b) in the case of an industrial undertaking the registration in respect of which has been revoked under section 10A on the ground that it had been obtained by misrepresentation as to an essential fact, carry on the business of the undertaking after the revocation, or (c) in the case of an industrial undertaking to which the provisions of this Act did not originally apply but became applicable after the commencement of this Act for any reason, carry on the business of the undertaking after the expiry of three months from the date on which the provisions of this Act became so applicable, or (d) effect any substantial expansion of an industrial undertaking which has been registered, or (e) change the location of the whole or any part of an industrial undertaking which has been registered, except under, and in accordance with, a licence issued in that behalf by the Central Government, and, in the case of a State Government, except under and in accordance with the previous permission of the Central Government.

(2) The provisions of sub-section (2) of section 11 and of section 12 shall apply, so far as may be, in relation to the issue of licences or permissions to any industrial undertaking referred to in this section as they apply in relation to the issue of licences or permissions to a new industrial undertaking.

<sup>9</sup> Ins. by Act 26 of 1953, s. 7.

<sup>10</sup> Added, *ibid.*, s. 3.

<sup>11</sup> Subs. by Act 26 of 1953, s. 9.

**Explanation.**—For the purposes of this section, 'substantial expansion' means the expansion of an existing industrial undertaking, which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.]

**14. Procedure for the grant of licence or permission.**—Before granting any licence or permission under <sup>12</sup>[section 11, section 11A or section 13], the Central Government may require such officer or authority as it may appoint for the purpose, to make a full and complete investigation in respect of applications received in this behalf and report to it the result of such investigation and in making any such investigation, the officer or authority shall follow such procedure as may be prescribed.

**15. Power to cause investigation to be made into scheduled industries or industrial undertakings.**—Where the Central Government is of the opinion that—

(a) in respect of any scheduled industry or industrial undertaking or undertakings—  
 (i) there has been, or is likely to be, a substantial fall in the volume of production in respect of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be; for which, having regard to the economic conditions prevailing, there is no justification; or  
 (ii) there has been, or is likely to be, a marked deterioration in the quality of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings, as the case may be, which could have been or can be avoided; or (iii) there has been or is likely to be a rise in the price of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking or undertakings as the case may be, for which there is no justification; or (iv) it is necessary to take any such action as is provided in this Chapter for the purpose of conserving any resources of national importance which are utilised in the industry or the industrial undertaking or undertakings, as the case may be; or

<sup>13</sup>[(b) any industrial undertaking is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest;]

the Central Government may make or cause to be made a full and complete investigation into the circumstances of the case by such person or body of persons as it may appoint for the purpose.

**16. Powers of Central Government on completion of investigation under section 15.**—

(1) If after making or causing to be made any such investigation as is referred to in section 15 the Central Government is satisfied that action under this section is desirable, it may issue such directions to the industrial undertaking or undertakings concerned as may be appropriate in the circumstances for all or any of the following purposes, namely:—(a) regulating the production of any article or class of articles by the industrial undertaking or undertakings and fixing the standards of production; (b) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which the undertaking or undertakings relates or relate; (c) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value; (d) controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject matter of investigation.

(2) Where a case relating to any industry or industrial undertaking or undertakings is under investigation, the Central Government may issue at any time any direction of the nature referred to in sub-section (1) to the industrial undertaking or undertakings concerned, and any such direction shall have effect until it is varied or revoked by the Central Government.

**17. Special provisions for direct control by Central Government in certain cases.**—

Deleted by the Industries (Development and Regulation) Amendment Act, 1953 (26 of 1953), s. 12.

**18. Power of person or body of persons appointed under section 15 to call for assistance in any investigation.**—(1) The person or body of persons appointed to make any investigation under section 15 may choose one or more persons possessing special knowledge of any matter relating to the investigation to assist him or it in holding the investigation.

<sup>12</sup> Subs. by Act 26 of 1953, s. 10.

<sup>13</sup> Subs., *ibid*, s. 11.

(2) The person or body of persons so appointed shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of taking evidence on oath (which he or it is hereby empowered to administer) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the person or body of persons shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).

**14[CHAPTER IIIA—DIRECT MANAGEMENT OR CONTROL OF INDUSTRIAL UNDERTAKINGS BY CENTRAL GOVERNMENT IN CERTAIN CASES]**

**18A. Power of Central Government to assume management or control of an industrial undertaking in certain cases.**—(1) If the Central Government is of opinion that—(a) an industrial undertaking to which directions have been issued in pursuance of section 16 has failed to comply with such directions, or (b) an industrial undertaking in respect of which an investigation has been made under section 15 (whether or not any directions have been issued to the undertaking in pursuance of section 16), is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the undertaking or to exercise in respect of the whole or any part of the undertaking such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period not exceeding five years as may be specified in the order:

Provided that the Central Government, if it is of opinion that it is expedient in public interest so to do, may direct that any such notified order shall continue to have effect after the expiry of the period of five years aforesaid for such further period as may be specified in the direction and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

*Explanation*—The power to authorise a body of persons under this section to take over the management of an industrial undertaking which is a company includes also a power to appoint any individual, firm or company to be the managing agent of the industrial undertaking on such terms and conditions as the Central Government may think fit.

**18B. Effect of notified order under section 18A.**—(1) On the issue of a notified order under section 18A authorising the taking over of the management of an industrial undertaking,—(a) all persons in charge of the management, including persons holding office as managers or directors of the industrial undertaking immediately before the issue of the notified order, shall be deemed to have vacated their offices as such; (b) any contract of management between the industrial undertaking and any managing agent or any director thereof holding office as such immediately before the issue of the notified order shall be deemed to have been terminated; (c) the managing agent, if any, appointed under section 18A shall be deemed to have been duly appointed as the managing agent in pursuance of the Indian Companies Act, 1913 (VII of 1913), and the memorandum and articles of association of the industrial undertaking, and the provisions of the said Act and of the memorandum and articles shall, subject to the other provisions contained in this Act, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Central Government; (d) the person or body of persons authorised under section 18A to take over the management shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the industrial undertaking is or appears to be entitled, and all the property and effects of the industrial undertaking shall be deemed to be in the custody of the person or, as the case may be, the body of persons as from the date of the notified order; and (e) the persons, if any, authorised under section 18A to take over the management of an industrial undertaking which is a company shall be for all purposes the directors of the industrial undertaking duly constituted under the Indian Companies Act, 1913 (VII of 1913) and shall alone be entitled to exercise all the powers of the directors of the industrial undertaking, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial undertaking or from any other source.

(2) Subject to the other provisions contained in this Act and to the control of the Central Government, the person or body of persons authorised to take over the management

of an industrial undertaking, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial undertaking and shall exercise such other powers and have such other duties as may be prescribed.

(3) Where any person or body of persons has been authorised to exercise any functions of control in relation to an industrial undertaking, the undertaking shall be carried in pursuance to any directions given by the authorised person in accordance with the provisions of the notified order, and any person having any functions of management in relation to the undertaking or part thereof shall comply with all such directions.

(4) The person or body of persons authorised under section 18 shall, notwithstanding anything contained in the memorandum or articles of association of the industrial undertaking exercise his or their functions in accordance with such directions as may be given by the Central Government so, however, that he or they shall not have any power to give any other person any directions under this section inconsistent with the provisions of any Act or instrument determining the functions of the authority carrying on the undertaking except in so far as may be specifically provided by the notified order.

**18C. Contracts in bad faith, etc., may be cancelled or varied.**—Without prejudice to the provisions contained in section 18B, the person or body of persons authorised under section 18A to take over the management of an industrial undertaking may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 18A, between the industrial undertaking and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial undertaking, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

**18D. No right to compensation for termination of office or contract.**—Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold any office by reason of the provisions contained in clause (a) of section 18B, or whose contract of management is terminated by reason of the provisions contained in clause (b) of that section, shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

Provided that nothing contained in this section shall affect the right of any such person to recover from the industrial undertaking moneys recoverable otherwise than by way of such compensation.

**18E. Application of Act VII of 1913.**—(1) Where the management of an industrial undertaking, being a company as defined in the Indian Companies Act, 1913 (VII of 1913), is taken over by the Central Government, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such undertaking,—(a) it shall not be lawful for the shareholders of such undertaking or any other person to nominate or appoint any person to be a director of the undertaking; (b) no resolution passed at any meeting of the shareholders of such undertaking shall be given effect to unless approved by the Central Government; (c) no proceeding for the winding up of such undertaking or for the appointment of a receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Indian Companies Act, 1913 (VII of 1913), shall continue to apply to such undertaking in the same manner as it applied thereto before the issue of the notified order under section 18A.

**18F. Power of Central Government to cancel notified order under section 18A.**—If at any time it appears to the Central Government on the application of the owner of the industrial undertaking or otherwise that the purpose of the order made under section 18A has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and on the cancellation of any such order the management or the control, as the case may be, of the industrial undertaking shall vest in the owner of the undertaking.

#### CHAPTER III-B—CONTROL OF SUPPLY, DISTRIBUTION, PRICE, ETC., OF CERTAIN ARTICLES

**18G. Power to control supply, distribution, price, etc., of certain articles.**—(1) The Central Government, so far as it appears to it to be necessary or expedient for securing

the equitable distribution and availability at fair prices of any article or class of articles relatable to any scheduled industry, may, notwithstanding anything contained in any other provision of this Act, by notified order, provide for regulating the supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), a notified order made thereunder may provide—(a) for controlling the prices at which any such article or class thereof may be bought or sold; (b) for regulating by licences, permits or otherwise the distribution, transport, disposal, acquisition, possession, use or consumption of any such article or class thereof; (c) for prohibiting the withholding from sale of any such article or class thereof ordinarily kept for sale; (d) for requiring any person manufacturing, producing or holding in stock any such article or class thereof to sell the whole or part of the articles so manufactured or produced during a specified period or to sell the whole or a part of the articles so held in stock to such person or class of persons and in such circumstances as may be specified in the order; (e) for regulating or prohibiting any class of commercial or financial transactions relating to such article or class thereof which in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest; (f) for requiring persons engaged in the distribution and trade and commerce in any such article or class thereof to mark the articles exposed or intended for sale with the sale price or to exhibit at some easily accessible place on the premises the price-lists of articles held for sale and also to similarly exhibit on the first day of every month, or at such other time as may be prescribed, a statement of the total quantities of any such articles in stock; (g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters; and (h) for any incidental or supplementary matters, including, in particular, the grant or issue of licences, permits or other documents and the charging of fees therefor.

(3) Where, in pursuance of order made with reference to class (d) of sub-section (2), any person sells any article, there shall be paid to him the price therefor—(a) where the price can consistently with the controlled price, if any, be fixed by agreement, the price so agreed upon; (b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any, fixed under this section; (c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

(4) No order made in exercise of any power conferred by this section shall be called in question in any court.

(5) Where an order purports to have been made and signed by an authority in exercise of any power conferred by this section, a court shall, within the meaning of the Indian Evidence Act, 1872 (I of 1872), presume that such order was so made by that authority.

*Explanation.*—In this section, the expression 'article or class of articles' relatable to any scheduled industry includes any article or class of article imported into India which is of the same nature or description as the article or class of articles manufactured or produced in the scheduled industry.]

#### CHAPTER IV—MISCELLANEOUS

**19. Powers of inspection.**—(1) For the purpose of ascertaining the position or working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any person authorised by the Central Government in this behalf shall have the right—(a) to enter and inspect any premises; (b) to examine any person having the control of, or employed in record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and (c) to examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

**20. General prohibition of taking over management or control of industrial undertakings.**—After the commencement of this Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorises any such Government or local authority so to do.

**21. Certain administrative expenses of Development Councils to be paid from moneys provided by Parliament.**—Such administrative expenses as relate to the emoluments of officers of a Development Council who are appointed by or with the approval of the Central Government, shall be defrayed out of moneys provided by Parliament.



**22. Power of the Central Government to issue directions to Development Councils.—**

In the exercise of its functions under this Act, every Development Council shall be guided by such instructions as may be given to it by the Central Government and such instructions may include directions relating to the manner in which, and the purpose for which, any proceeds of the cess levied under section 9 which may have been handed over to it, shall be expended.

<sup>15</sup>[23. **Decision of Central Government final respecting certain matters.**—If, for the purposes of this Act, any question arises as to whether—(a) there has been a substantial expansion of an industrial undertaking, or (b) an industrial undertaking is producing or manufacturing any new article, the decision of the Central Government thereon shall be final.]

**24. Penalties.**—<sup>16</sup>[(1) If any person contravenes or attempts to contravene or abets the contravention of—(i) the provisions of sub-section (1) of section 10 or of sub-section (1) of section 11 or of section 11A or of sub-section (1) of section 13, or (ii) any direction issued under section 16 or sub-section (3) of section 18B, or (iii) any order made under section 18G, or (iv) any rule the contravention of which is made punishable under this section,

he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.]

(2) If the person contravening any of the said provisions is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—(a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director" in relation to a firm means a partner in the firm.

<sup>17</sup>[24A. **Penalty for false statements.**—If any person,—(a) when required by this Act or by any order under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true; or (b) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any order made under this Act to maintain or furnish;

he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.]

<sup>18</sup>[25. **Delegation of powers.**—(1) The Central Government may, by notified order, direct that any power exercisable by it under this Act (other than the power given to it by sections 16 and 18A) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority (including in the said expressions any Development Council, State Government or officer or authority subordinate to the Central Government) as may be specified in the direction.

(2) Any power exercisable by a State Government by virtue of a direction under sub-section (1) may, unless otherwise provided in such direction, be exercised also by such

<sup>15</sup> Ins. by Act 26 of 1953, s. 14.

<sup>16</sup> Subs., *ibid.*, s. 15.

<sup>17</sup> Ins., *ibid.*, s. 16.

<sup>18</sup> Subs., *ibid.*, s. 17.

officer or authority subordinate to that State Government as it may, by notified order, be specified in this behalf.]

**26. Power to issue directions.**—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder.

**27. Cognizance of offences.**—No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (XLV of 1860).

**28. Burden of proof in certain cases.**—Where any person is prosecuted for contravening any order made under section 18G which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

**29. Jurisdiction of courts.**—(1) Subject to the provisions of sub-section (2), no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

(2) Any magistrate or bench of magistrates empowered, for the time being, to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (V of 1898), may, on application in this behalf being made by the prosecution, try, in accordance with the provisions contained in sections 262 to 265 of the said Code any offence which consists of a contravention of an order made under section 18G.

**29A. Special provision regarding fines.**—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for any magistrate of the first class and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of any offence under this Act.

**29B. Power to exempt in special cases.**—If the Central Government is of opinion, having regard to the smallness of the number of workers employed or to the amount invested in any industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled industry, that it would not be in public interest to apply all or any of the provisions of this Act thereto, it may by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose, any industrial undertaking or class of industrial undertakings or any scheduled industry or class of scheduled industries as it may specify in the notification from the operation of all or any of the provisions of this Act or of any rule or order made thereunder.

**29C. Protection of action taken under the Act.**—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

**30. Power to make rules.**—(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—(a) the constitution of the Advisory Council and Development Councils, the term of office and other conditions of service of the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council or a Development Council; (b) the form of the statement of account to be furnished by a Development Council; (c) the intervals at which, the time within which, and the manner in which the cess leviable under section 9 shall be payable and the rebate for the prompt payment of such cess; (d) the expenses which a Development Council may meet from the proceeds of the cess levied under section 9 which may have been handed over to it; (e) the appointment by or with the approval of the Central Government of any officers of a Development Council; (f) the facilities to be provided by any industrial undertaking for the training of technicians and labour; (g) the collection of any information or statistics in respect of any scheduled industry; (h) the manner in which industrial undertakings may be registered under section 10 and the levy of a fee therefor; (i) the procedure for the grant or issue of licences and permissions under <sup>19</sup>[section 11, section 11A or section 13] the time within

<sup>19</sup> Subs. by Act 26 of 1953, s. 18.

which such licences or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such public inquiry in relation thereto as may be necessary in the circumstances; (j) the fees to be levied in respect of licences and permissions issued under this Act; (k) the matters which may be taken into account in the granting or issuing of licences and permissions, including in particular, the previous consultation by the Central Government with the Advisory Council or any Development Council or both in regard to the grant or issue of any such licences or permission; (l) the procedure to be followed in making any investigation under this Act; (m) the conditions which may be included in any licences and permissions; (n) the conditions on which licences and permissions may be varied or amended under section 12; (o) the maintenance of books, accounts and records relating to an industrial undertaking; (p) the submission of special or periodical returns relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking, and the forms in which, and the authorities to which such returns and reports shall be submitted; (q) any other matter which is to be or may be prescribed under this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 24.

(4) All rules made under this section shall be laid for not less than seven days before Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid, or the session immediately following.

**31. Application of other laws not barred.**—The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other Central Act for the time being in force, relating to any of the scheduled industries.

**32. Amendment of section 2, Act XIV of 1947.**—[The amendments have been incorporated in section 2 of the Industrial Disputes Act, 1947 (XIV of 1947) ]

#### THE FIRST SCHEDULE—[See sections 2 and 3(i)]

Any industry engaged in the manufacture or production of any of the following, namely:—

- (1) Aircraft.
- (2) Arms and ammunition.
- (3) Coal, including coke and other derivatives.
- (4) Iron and steel.
- <sup>20</sup>[(5) Mathematical, surveying, and drawing instruments;
- (5A) Scientific instruments.]
- (6) Motor and aviation fuel, kerosene, crude oils and synthetic oils.
- (7) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power.
- (8) Sugar.
- (9) Telephones, telegraph apparatus and wireless communication apparatus.
- <sup>20</sup>[(10) textiles—(a) made wholly or in part of cotton, including cotton yarn, hosiery and rope, (b) made wholly or in part of jute, including jute yarn, twine and rope, (c) made of wool, including woollen yarn, hosiery, carpets and druggets, (d) made of silk, (e) made of artificial silk, including artificial silk yarn, (f) made wholly or in part of staple fibre.]
- <sup>20</sup>[(11) Automobiles.
- (11A) Tractors.]
- (12) Cement.
- <sup>20</sup>[(13) Electric lamps,
- (13A) Electric fans.]
- (14) Electric Motors.
- (15) Heavy chemicals including fertilizers.
- <sup>20</sup>[(16) Machinery used in industries including boilers and steam generating equipment.
- (16A) Ball, roller and tapered bearings.
- (17) Locomotives.
- (17A) Rolling stock.]
- (18) Machine tools.
- (19) Machinery and equipment for the generation, transmission and distribution of electric energy.
- (20) Non-ferrous metals including alloys <sup>21</sup>[and semi-manufactures thereof].
- (21) Paper including newsprint <sup>20</sup>[paper board and straw board].

<sup>19a</sup> The Schedule has been substituted by the Industries (Development and Regulation) Amendment Act, 1956—inserted in this book after the Rules.

<sup>20</sup> Subs. by Act 26 of 1953, s. 19.

<sup>21</sup> Added, *ibid*, s. 19.

- (22) Pharmaceuticals and drugs.
- (23) Power and industrial alcohol.
- (24) Rubber goods.
- <sup>22</sup>[(25) Leather, leather goods and pickers.
- (26) Glue and gelatine.
- (27) Vanaspati.
- (27A) Vegetable oils.]
- (28) Agricultural implements.
- (29) Batteries, dry cells and storage.
- (30) Bicycles<sup>23</sup> \* \*.
- (31) Hurricane lanterns.
- (32) Internal combustion engines.
- (33) Power-driven pumps.
- (34) Radio receivers.
- <sup>27</sup>[(35) Sewing machines.
- (35A) Knitting machines.
- (36) Small tools.
- (36A) Hand tools.]
- (37) Glass and ceramics.
- <sup>24</sup>[(38) Dye-stuffs.
- (39) Soap.
- (40) Other toilet requisites.
- (41) Plywood.
- (42) Ferro-manganese.]

<sup>24</sup>[*Explanation 1.*—In item (4), 'Iron and steel' shall include any manufactured product of iron and steel.

*Explanation 2.*—In items (1), (7), (9), (11), (11A), (13), (13A), (17), (17A), (29), (30), (32), (33), (34), (35), (35A), (36) and (36A), the articles specified therein shall include each of their component parts and accessories also.]

#### THE SECOND SCHEDULE—[See section 6(4)]

Functions which may be assigned to Development Councils:—

- (1) Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.
- (2) Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.
- (3) Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.
- (4) Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.
- (5) Promoting standardisation of products.
- (6) Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry.
- (7) Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in those already in use, the assessment of the advantages of different alternatives and the conduct of experimental establishments and of tests on a commercial scale.
- (8) Promoting the training of persons engaged or proposing engagement in the industry and their education in technical or artistic subjects relevant thereto.
- (9) Promoting the re-training in alternative occupations of personnel engaged in or retrenched from the industry.
- (10) Promoting or undertaking scientific and industrial research, research into matters affecting industrial psychology and research into matters relating to production and to the consumption or use of goods and services supplied by the industry.
- (11) Promoting improvements and standardisation of accounting and costing methods and practice.

<sup>22</sup> Subs. by Act 26 of 1953, s. 19.

<sup>23</sup> The words "and parts thereof" omitted, *ibid.*

<sup>24</sup> Added, *ibid.*, s. 19.

- (12) Promoting or undertaking the collection and formulation of statistics.
- (13) Investigating possibilities of decentralizing stages and processes of production with a view to encouraging the growth of allied small scale and cottage industries.
- (14) Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.
- (15) Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertaking inquiries for the purpose of enabling the Development Council so to advise, and
- (16) Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

## REGISTRATION AND LICENSING OF INDUSTRIAL UNDERTAKINGS RULES, 1952

### Arrangement of Paragraphs

- 1. Short title.
  - 2. Definitions.
  - 3. Application for registration.
  - 4. Acknowledgement of application.
  - 5. Power of Central Government to ask for additional information.
  - 6. Grant of registration certificate.
  - 7. Application for licence.
  - 8. Acknowledgement of application.
  - 9. Power to call for additional information.
  - 10. Application to be referred to the Licensing Committee.
  - 11. Submission of report by the Licensing Committee.
  - 12. Contents of the report.
  - 13. Recommendation regarding public enquiry.
  - 14. Invitation of applications.
  - 15. Grant of licence or permission.
  - 16. Variation or amendment of licences.
  - 17. Revocation of licences.
  - 18. Review of licences by a sub-committee.
  - 19. Submission of returns.
  - 19A. Notice of certain facts to be given.
  - 19B. Loss of registration certificate or licence.
  - 20. Penalty for contravention of rules.
  - 21. Allotment of controlled commodities to licensed undertakings.
  - 22. Concession in the grant of import licences to undertakings.
- FORMS.

## REGISTRATION AND LICENSING OF INDUSTRIAL UNDERTAKINGS RULES, 1952<sup>1</sup>

- 1. **Short title.**—These rules may be called the Registration and Licensing of Industrial Undertakings Rules, 1952.
- 2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context:—
  - (i) "the Act" means the Industries (Development and Regulation) Act, 1951, (LXV of 1951).

<sup>1</sup> These Rules were published under the Ministry of Commerce and Industry Notification No. S.R.O. 1141, dated the 9th July, 1952, in Gazette of India Extraordinary 1952, Part II—Sec. 3, pp. 613-632.

(ii) "effective steps" shall mean one or more of the following—

<sup>2</sup>[(a) that 60 per cent. or more of the capital issued for an industrial undertaking which is a public company within the meaning of the Indian Companies Act, 1913 (VII of 1913)<sup>3</sup> has been paid up;].

(b) that a substantial part of the factory building has been constructed;

(c) that a firm order has been placed for a substantial part of the plant and machinery required for the undertaking.

**3. Application for registration.**—<sup>4</sup>[(1) An application for the registration of an existing industrial undertaking shall be made, in triplicate, to the Ministry of Commerce and Industry, Government of India, New Delhi, in Form A or B, as the case may be, appended to these Rules at least three months before the expiry of the period fixed under sub-section (1) of section 10 of the Act in relation to that industrial undertaking.

Provided that an application which is not made in time may be entertained by the Ministry of Commerce and Industry, if the applicant satisfies that Ministry that there was sufficient cause for not making the application in time.]

<sup>5</sup>[(1A) Where an application for the registration of an industrial undertaking is pending at the commencement of the Industries (Development and Regulation) Amendment Act, 1953, no fresh application for such registration shall be necessary under the rule and any such pending application shall be disposed of in accordance with the provisions of these Rules.]

<sup>6</sup>[(1B) Where an industrial undertaking consists of more than one factory, a separate Form, A or B, as the case may be, shall be filled and sent in respect of each factory.]

(2) Each application shall be accompanied by a treasury receipt for Rs. 10. The amount should be deposited in the nearest Government Treasury or in the nearest Branch of the Imperial Bank of India. (Amounts deposited at Bombay, Calcutta, Delhi and Madras should be deposited in the Reserve Bank of India instead of the Imperial Bank of India). The Treasury or the Bank should be asked to credit the amount to the Receipt Head "XXXII—Industries and Supplies—Miscellaneous Receipts."

**4. Acknowledgment of application.**—On receipt of the application, the receiving officer shall note thereon the date of its receipt, and shall send to the applicant an acknowledgment stating the date of receipt.

**5. Power of Central Government to ask for additional information.**—The Ministry of Commerce and Industry or the authority appointed by it <sup>7</sup>[in this behalf] may require the applicant to furnish within a period to be specified by it, such additional information as it may consider necessary for the purpose of registration.

**6. Grant of registration certificate.**—If an application made under sub-rule (1) of rule 3 falls within the scope of that rule, the Ministry of Commerce and Industry<sup>7</sup> \* \* \*, shall after such investigation as it may consider necessary, grant to the applicant, before the <sup>8</sup>[expiry of the period fixed under section 10 of the Act], a certificate of registration in Form C appended to these rules. If an application made under sub-rule (1) of rule 3 does not fall within the scope of that rule, the Ministry of Commerce and Industry<sup>7</sup> \* \* \* shall inform the applicant accordingly.

**7. Application for licence.**—(1) An application for a licence or permission for the establishment of a new industrial undertaking or any substantial expansion of an industrial undertaking shall be made before taking any of the following steps:—(a) raising from the public any part of the capital required for the undertaking or expansion. (b) commencing the construction of any part of the factory buildings for the undertaking or expansion. (c) placing an order for any part of the plant and machinery required for the undertaking or expansion.

<sup>9</sup>[(1A) An application for a licence or permission for changing the location of the whole or any part of an industrial undertaking which has been registered shall be made

<sup>2</sup> Subs. by Notification No. S.R.O. 1856, dated the 1st October, 1953, vide Gazette of India, 1953, Extraordinary, Pt. II—Section 3, pp. 3033 to 3053.

<sup>3</sup> See now the Companies Act, 1956 (I of 1956)

<sup>4</sup> Subs., *ibid.*

<sup>5</sup> Ins., *ibid.*

<sup>6</sup> Subs. by Notification No. S.R.O. 1856 dated the 1st October, 1953.

<sup>7</sup> The words and figure 'or the authority appointed by it under rule 3' omitted, *ibid.*

<sup>8</sup> Subs., *ibid.*

<sup>9</sup> Ins., *ibid.*

before taking any of the following steps:—(a) the acquisition of land or the construction of premises for the purpose of housing the industrial undertaking at the proposed new site; (b) the dismantling of any part of the plant and machinery at the existing site.]

<sup>10</sup>[(2) An application for a licence or permission under the Act shall be made, in triplicate, to the Ministry of Commerce and Industry, Government of India, New Delhi, in Form D, E or EE, as the case may be, appended to these rules.]

(3) Each application shall be accompanied by a treasury receipt for Rs. 50/-. The amount should be deposited in the nearest Government Treasury or in the nearest Branch of the Imperial Bank of India. (Amounts deposited at Bombay, Calcutta, Delhi and Madras should be deposited in the Reserve Bank of India instead of the Imperial Bank of India). The Treasury or the Bank should be asked to credit the amount to the Receipt Head "XXXII—Industries and Supplies—Miscellaneous Receipts."

8. **Acknowledgement of application.**—On receipt of the application, the receiving officer shall note thereon the date of its receipt, and shall send to the applicant an acknowledgement stating the date of receipt.

9. **Power to call for additional information.**—The Ministry of Commerce and Industry or the authority appointed by it <sup>11</sup>[in this behalf] may require the applicant to furnish, within a period to be specified by it, such additional information as it may consider necessary.

10. **Application to be referred to the Licensing Committee.**—The Ministry of Commerce and Industry<sup>12</sup> \* \* \* shall refer the application to a Committee (hereinafter referred to as the Licensing Committee) <sup>13</sup>[consisting of one or more representatives] of each of the Ministries of Commerce and Industry, Railways, Finance (Department of Economic Affairs) and Production and of the Planning Commission. The representative of the Ministry of Commerce and Industry shall be the Chairman of the Committee. The Committee may co-opt one or more representatives of other Ministries of the Government of India or of any State Government concerned, whenever necessary.

11. **Submission of report by the Licensing Committee.**—After such investigation as may be necessary, the Licensing Committee shall submit a report to the Ministry of Commerce and Industry.

12. **Contents of the report.**—In making the report under rule 11, the Licensing Committee shall have regard to the approved plans, if any, of the Central Government for the development of the scheduled industry concerned and, where no such plans exist, to the existing capacity of the scheduled industry, the demand and supply position, availability of raw materials and plant and machinery. The report should, among other matters, contain recommendations regarding capital and its structure, suitability of the location proposed from the point of view of the approved plans for the industry, capacity of the plant to be installed, availability of rail-transport capacity, availability of technical and other skilled personnel required, and collaboration, if any, with foreign manufacturers.

13. **Recommendation regarding public enquiry.**—If the Licensing Committee is of the opinion that a public enquiry is necessary in respect of any application, it may recommend such a step to the Ministry of Commerce and Industry<sup>14</sup> \* \* \*.

14. **Invitation of applications.**—(1) The Ministry of Commerce and Industry or the authority appointed by it <sup>14</sup>[in this behalf] may, where it considers necessary, invite, by means of a notice published in the Gazette of India, applications for the grant of licences for the establishment of new industrial undertakings in any scheduled industry.

(2) An application received under sub-rule (1) shall be dealt with in the manner laid down in rules 10 to 13.

15. **Grant of licence or permission.**—(1) The Ministry of Commerce and Industry shall consider the report submitted to it under rule 11, and where it decides that a licence or permission, as the case may be, should be granted, it shall inform the applicant accordingly, not later than 3 months from the date of receipt of the application, or the date on which additional information under rule 9 is furnished, whichever is later.

(2) Where the Ministry of Commerce and Industry considers that certain conditions should be attached to the licence or permission or that the licence or permission should

<sup>10</sup> Subs. by Notification No. S.R.O. 1856 dated the 1st October, 1953.

<sup>11</sup> Subs., *ibid.*

<sup>12</sup> The words, figures and brackets 'or the authority appointed by it under sub-rule (1) of rule 7' omitted, *ibid.*

<sup>13</sup> Subs., *ibid.*

<sup>14</sup> Subs., *ibid.*

be refused, it shall, not later than three months from the date of receipt of the application or the date on which additional information under rule 9 is furnished, whichever is later, give an opportunity to the applicant to state his case, before reaching a decision.

(3) Where a licence or permission has been refused the applicant shall be informed of the reasons for such refusal.

(4) Licences or permissions shall be in Form F appended to these rules.

16. **Variation or amendment of licences.**—(1) Any owner of an industrial undertaking in respect of which a licence has been granted, who desires any variation or amendment in his licence shall apply to the Ministry of Commerce and Industry<sup>15</sup> \* \* \* giving the reasons for the variation or amendment.

(2) The Ministry of Commerce and Industry after carrying out such investigation as it may consider necessary, may vary or amend the licence. The Ministry of Commerce and Industry may also consult the Licencing Committee before coming to a decision.

17. **Revocation of licences.**—The Ministry of Commerce and Industry<sup>15</sup> \* \* \* shall, before exercising its power of revocation of a licence under sub-section (1) of section 12 of the Act, give an opportunity to the licensee to state his case.

18. **Review of licences by a sub-committee.**—A sub-committee of the Central Advisory Council shall be constituted which will review all licences issued, refused, varied, amended or revoked from time to time, and advise Government on the general principles to be followed in the issue of licences for establishing new undertakings or substantial expansion of the existing undertakings. The results of the review shall be reported to the Central Advisory Council.

19. **Submission of returns.**—(1) Every owner of an industrial undertaking in respect of which a licence or permission has been granted <sup>16</sup>[under the Act] shall send every half-year ending 30th June and 31st December, commencing from the date of grant of the licence or permission, as the case may be, till such time as the industrial undertaking commences production, a return, <sup>17</sup>[with five spare copies], in Form G appended to these rules, to the Ministry of Commerce and Industry, Government of India, New Delhi.<sup>15</sup> \* \* \* The return relating to every half-year shall be sent within one month after the expiry of that half-year.

<sup>18</sup>[(2) Where any condition has been attached to a licence or permission granted in respect of an industrial undertaking to the effect that certain steps should be taken within a period specified therein, every owner of such an undertaking shall send a return, with five spare copies, in Form G appended to these rules, to the Ministry of Commerce and Industry, Government of India, New Delhi, showing the progress made in taking such steps at the expiry of the period so specified. The return shall be sent within a period of seven days from the expiry of the period so specified.

(3) Every owner of an industrial undertaking which has been registered by reason of effective steps having been taken for the establishment of that undertaking before the commencement of the Act shall send, every half-year ending on the 30th June and the 31st December, and commencing from the 31st December, 1953, till such time as the industrial undertaking commences production, a return, with five spare copies, in Form G appended to these rules, to the Ministry of Commerce and Industry, Government of India, New Delhi, or to any authority appointed by it in this behalf. The return relating to every half-year shall be sent within one month of the expiry of that half-year.]

<sup>19</sup>[19A. **Notice of certain facts to be given.**—(1) If there is any change in the name of a registered industrial undertaking or an undertaking in respect of which a licence or permission has been granted under the Act, the owner thereof shall, within fourteen days from the date of such change, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(2) If there is any change in the owner of a registered industrial undertaking or an undertaking in respect of which a licence or permission has been granted, the new owner thereof shall, within fourteen days from the date of such change, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(3) If by reason of (a) reduction in the number of workers employed; (b) discontinuation of the production of articles falling within the scope of the Act; or (c) any other

<sup>15</sup> The words, figures and brackets 'or to the authority appointed by it under sub-rule (1) of rule 7' omitted, *ibid*.

<sup>16</sup> Ins., by Notification No. S.R.O. 1856 dated the 1st October, 1953.

<sup>17</sup> Subs., *ibid*.

<sup>18</sup> Ins., *ibid*.



reason, all or any of the provisions of the Act become inapplicable to a registered industrial undertaking or an undertaking in respect of which a licence or permission has been granted and continue to be so inapplicable for a period of six months, the owner thereof shall, within fourteen days of the expiry of the said period of six months give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(4) If a registered industrial undertaking or an industrial undertaking in respect of which a licence or permission has been granted, has been closed for a period exceeding thirty days, the owner thereof shall within seven days of the expiry of the said period of thirty days, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi;

(5) If any decision has been taken by a competent authority that a registered industrial undertaking or an industrial undertaking in respect of which a licence or permission has been granted shall be liquidated, the owner thereof shall, within fourteen days from the date of such a decision, give notice in writing of the fact to the Ministry of Commerce and Industry, Government of India, New Delhi.

**19B. Loss of registration certificate or licence.**—Where a registration certificate, a licence or a permission granted under these Rules, is lost, destroyed or mutilated, a duplicate may be granted on receipt of a treasury challan for Rs. 5/-.]

**20. Penalty for contravention of rules.**—Whosoever contravenes or attempts to contravene or abets the contravention of any of these rules shall be punishable under section 24 of the Act.

**21. Allotment of controlled commodities to licenced undertakings.**—The owner of an industrial undertaking in respect of which a licence or permission has been granted shall be eligible to the allotment of controlled commodities required by him for the construction or operation or for both construction and operation of his undertaking on such preferential basis as the Central Government may determine from time to time. In determining such preference the Central Government shall have due regard to the requirements of existing industrial undertakings.

**22. Concession in the grant of import licences to undertakings.**—The owner of an industrial undertaking in respect of which a licence or permission has been granted shall be eligible for the issue of licences for the import of goods required by him for the construction or operation or for both construction and operation of his undertaking on such preferential basis as the Central Government may determine from time to time. In determining this preference which may include such concession as the submission of one consolidated application in respect of the requirements from each currency area for all items shown as licensable to actual users, submission of separate application for highly specialised items even though such items may not be shown as licensable to actual users and priority in the matter of import from different currency areas, the Central Government shall have due regard to the requirements of existing industrial undertakings.

<sup>10</sup>[FORM A—[Prescribed under Rule 3 of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)].

#### APPLICATION FOR REGISTRATION

1. This Form is to be used in the following cases:—

(a) industrial undertakings producing on the 8th May, 1952, or at any time during the 12 months preceding that date, articles relatable to the industries specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as originally enacted.

(b) industrial undertakings producing on 1st October, 1953, or at any time during the 12 months preceding that date, any articles relatable to the industries added to the First Schedule by the Industries (Development and Regulation) Amendment Act, 1953.

2. Particulars given in the application should show the position as on 8th May, 1952, or 1st October, 1953, as is applicable to the scheduled industry concerned.

1. Scheduled industry or industries to which the articles produced relate.
2. Registration number under the Indian Factories Act and the date of registration.
3. Name of the industrial undertaking.  
Address:—(a) Head Office; (b) Factory.
4. Ownership. Whether proprietary, partnership, private limited or public limited.

<sup>10</sup> Subs. by Notification No. S.R.O. 1856 dated the 1st October, 1953.

5. Names of proprietors, partners or Board of Directors and their addresses.
6. Name and address of the owner of the factory in terms of section 3(f) of the Act.
7. Capital structure—

(a) In the case of companies registered under the Indian Companies Act, 1913.

(i) Authorised Capital—

	Number	Value	Total
Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(ii) Issued Capital—

Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(iii) Paid-up Capital—

Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others.

(i) Capital invested by the owner excluding borrowings.

(ii) Share of each of the partners or of members of an association.

(iii) Borrowings.

8. Name and address of Managing Agents, if any, and the principal clauses of the managing agency agreement.

9. A copy each of the last three years' Balance Sheets and Profit and Loss Accounts. (To be attached to each copy of the application).

10. (a) Foreign capital invested. Terms of agreement, if any, with foreign collaborator including terms in regard to royalty, etc.

(b) Details of foreign technicians employed.

11. \*Approximate land under control of the factory—

(1) for factory and administration purposes—

(a) in use.

(b) available for expansion.

(2) for township and other facilities—

(a) in use.

(b) available for expansion.

\*(This is not applicable to mining concerns.)

12. Water Supply—

(a) Is it ample for the requirements of—

(1) factory and

(2) township or staff quarters? (State approximate quantity.)

(b) Is it drawn from public supply?

(c) Effluent problems, if any.

13. Power Supply—

(a) Total requirements drawn from—(1) own generating station. (2) public supply.

(b) In case of own station, give brief particulars of plant in operation.

14. (a) Nature of plant and equipment section by section. Main plant and machinery items grouped under different sections following the standard practice in vogue in each industry. (b) Replacement requirements over next five years.

15. Transport facilities for incoming raw materials and outgoing finished products.

16. Manufacturing activities—

(a) Whether continuous or shift operation.

(b) Number of shifts generally worked.

(c) Number of working days in a month/year.

NOTE.—Allow for compulsory holidays and for possible interruptions arising from breakdowns, overhauling and maintenance repairs separately on the basis of your past experience.

(d) \*Monthly installed capacity—

\*(State the number of working days in a month and the number of shifts in a day).

Name of the manufactured product	Capacity

17. Past production including bye-product during the last three calendar years.

Name of principal product or bye-product	Quantity	Value

NOTE.—In the case of seasonal industries, e.g., sugar, give figures relating to the season.

18. Staff and Labour employed—

	Head Office	Factory	Total
(a) Managerial			
(b) Supervisory—Technical; Non-technical			
(c) Clerical			
(d) Labour—Skilled; Semi-skilled; Unskilled			
(e) Other categories, if any.			

Place.....

Date.....

Signature of applicant.

(To be filled in by the Government of India)

Date of receipt of the application.

Signature of the receiving officer.

<sup>20</sup>[FORM B]—[Prescribed under Rule 3 of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)]

#### APPLICATION FOR REGISTRATION

1. This form is to be used in the following cases:—

(a) industrial undertakings which had taken effective steps as defined in Rule 2 (ii) of these Rules, on or before the 8th May, 1952, for the production of any articles relating to the industries specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, as originally enacted

(b) industrial undertakings which had taken effective steps as defined in Rule 2 (ii) of these Rules, on or before the 1st October, 1953, for the production of articles relating to the industries added to the First Schedule by the Industries (Development and Regulation) Amendment Act, 1953.

2. Particulars given in the application should show the position as on 8th May, 1952 or 1st October, 1953, as is applicable to the scheduled industry concerned.

NOTE:—Where an industrial undertaking consists of more than one factory, a separate form should be filled and sent, for each of the factories.

1. Scheduled industry or industries to which the articles produced relate.
2. Name and address of the applicant.
3. Name of the industrial undertaking.  
Address:—(a) Head Office; (b) Factory.
4. Ownership. Whether proprietary, partnership, private limited or public limited company.
5. Names of proprietors, partners or Board of Directors and their addresses.
6. Name and address of the owner of the factory in terms of section 3(f) of the Act.
7. Whether sanction for capital issue has been applied for. If so, the number and date of sanction of capital issue. If not, how the undertaking is or is to be financed.
8. What percentage of the total capital has been raised or subscribed.

<sup>20</sup> Sube. by Notification No. S.R.O. 1856 dated the 1st October, 1953.

9. Types, number and values of different classes of shares authorised, issued and paid-up or arrangements being made for—

(a) In the case of companies registered under the Indian Companies Act, 1913—

	Number	Value	Total
(i) Authorised Capital—			
Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...
(ii) Issued Capital—			
Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...
(iii) Paid-up Capital—			
Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others.

(i) Capital invested by the owner excluding borrowings.

(ii) Share of each of the partners or of members of an association.

(iii) Borrowings.

10. Name and address of the Managing Agents, if any.

11. Obligations, rights and privileges of Managing Agents in the constitution and working of the company.

12. Is any foreign collaboration or investment envisaged? If so, the extent and nature of such collaboration. Give a copy of the agreement, if any.

13. Are foreign technicians required? Number and types of such personnel. (Approximate indication may be given).

14. Location or proposed location of the factory.

Tehsil.....District.....State.....

15. Area of land required and whether it has been secured.

16. Particulars of buildings erected.

17. What portion of the factory buildings has been constructed and what proportion in value does it bear to the entire cost of the factory buildings.

18. Lines of manufacture proposed—

Name of product and bye-product	*Monthly proposed installed capacity

\*Basis of estimating installed capacity should be clearly stated, viz., whether operation will be continuous or shiftwise, and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

19. Number of estimated working days in a year.

20. Indicate your requirements of rail transport for movement of raw materials and finished products.

21. Estimated requirements of main raw materials.

Name of raw material	Whether indigenous or imported; if latter, country of origin	Quantity required per year	Estimated value

22. Requirements of capital equipment—

Total value of equipment required.

- (i) Imported—  
 (a) from sterling area  
 (b) from dollar and hard currency area  
 (ii) Indigenous.
23. What percentage in value of item 22 has been—  
 (a) ordered and received  
 (b) ordered and not yet received
24. Water supply—  
 (a) Will it be ample for the requirements of—  
 (1) factory and  
 (2) township or staff quarters (State approximate quantity).  
 (b) Will it be drawn from public supply?  
 (c) Effluent problems, if any.
25. Power supply—  
 (a) Total requirements proposed to be drawn from—  
 (1) own generating station,  
 (2) public supply  
 (b) In case of own station, give brief particulars of plant in operation

26 Staff and Labour	Already employed	Proposed to be employed on implementation of the project
(a) Managerial		
(b) Supervisory—		
Technical		
Non-technical		
(c) Clerical		
(d) Labour—		
Skilled		
Semi-skilled		
Unskilled		
(e) Other categories, if any		

27 Give a brief description of the processes involved in the manufacture and the factors favourable for their adoption in the location proposed by you.

Place....

Date .....

Signature of applicant.

(To be filled in by the Govt of India)

Date of receipt of the application.

Signature of the receiving officer.

FORM C—(Prescribed under Rule 6 of the Registration and Licensing of Industrial Undertakings Rules, 1952)

Registration No. ...

GOVERNMENT OF INDIA  
 MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the

195 .

Certified that the industrial undertaking details of which are mentioned below the been registered in terms of section 10 of the Industries (Development and Regulation) Act, 1951 (LXV of 1951).

Details—

1. Scheduled Industry.
2. Name of Industrial Undertaking  
Address.
3. Name of Owner  
Address.

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21[FORM D]—[Prescribed under Rule 7(2) of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)]

## APPLICATION FOR LICENCE OR PERMISSION

This form is to be used for application for a licence or permission for the establishment of a new industrial undertaking under section 11 of the Industries (Development and Regulation) Act, 1951.

NOTE:—Where the proposal involves the issue of capital for which consent has to be obtained under the Capital Issue (Continuance of Control) Act, 1947, an application for the consent should be made simultaneously in the form prescribed for that purpose to the Controller of Capital Issues, Ministry of Finance, Government of India, New Delhi.

1. Name of the scheduled industry or industries to which articles proposed to be manufactured relate.
2. Name and address of the applicant.
3. Name and address of the industrial undertaking.
4. Whether it is proposed to be undertaken by proprietors, partners, private limited or public limited company.
5. Name and address of the company.
6. Names of proprietors, partners, or Board of Directors and their addresses.
7. Name and address of the Managing Agents, if any.
8. Obligations, rights and privileges of Managing Agents in the constitution and working of the company.
9. Whether sanction for capital issue has been applied for otherwise how the undertaking is proposed to be financed.
10. Details of proposed capital structure.

(a) In the case of companies registered under the Indian Companies Act, 1913—

(i) Authorised Capital—		Number	Value	Total
Preference shares	...	..	...	...
Ordinary shares	..	...	..	...
Deferred shares	...	...	...	...
Any other class of shares	...	...	...	...

(ii) Issued Capital—		Number	Value	Total
Preference shares	...	...	...	...
Ordinary shares	...	...	...	...
Deferred shares	...	...	...	...
Any other class of shares	...	...	...	...

(iii) Paid-up Capital—		Number	Value	Total
Preference shares	...	...	...	...
Ordinary shares	...	...	...	...
Deferred shares	...	...	...	...
Any other class of shares	...	...	...	...

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others—

(i) Capital invested excluding borrowings.

(ii) Share of each of the partners or members of an association.

(iii) Borrowings.

11. Is any foreign collaboration or investment envisaged? If so, the extent and nature of such collaboration. Give a copy of the agreement, if any.

12. Are foreign technicians required? Number and types of such personnel. (Approximate indication may be given).

13. Proposed location of the factory—

Tehsil.....District.....State.....  
Reasons for the choice.

## 14. Lines of manufacture proposed—

Name of product and bye-product	*Monthly proposed installed capacity

\*Basis of estimating installed capacity should be clearly stated, *vis.*, whether the operation will be continuous or shiftwise and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

15. Number of estimated working days in a year.

16. Estimated requirements of main raw materials.

Name of raw material	Whether indigenous or imported; if the latter, the country of origin	Quantity required per year	Estimated value

17. Requirements of capital equipment.

Total value of equipment required.

(i) Imported—

(a) from sterling areas.

(b) from dollar and hard currency areas.

(ii) Indigenous—

18. Indicate your requirements of rail transport for movement of raw materials and finished products.

19. Area of land required and whether it has been acquired.

20. Water supply—

(a) Will it be ample for the requirements of—

(1) factory and

(2) township or staff quarters (State approximate quantity).

(b) Will it be drawn from public supply?

(c) Effluent problems, if any.

21. Power supply—

(a) Total requirements proposed to be drawn from—

(1) own generating station;

(2) public supply.

(b) In case of own station, give brief particulars of plant in operation.

22. Staff and Labour— Proposed to be employed on implementation of the project.

(a) Managerial

(b) Supervisory—

Technical

Non-technical

(c) Clerical

(d) Labour—

Skilled

Semi-skilled

Unskilled

(e) Other categories, if any.

23. Give a brief description of the processes involved in the manufacture and factors favourable for their adoption.

Place.....

Date.....

Signature of applicant.

(To be filled in by the Government of India)

Date of receipt of the application.

Signature of the receiving Officer.

<sup>22</sup>[FORM E]—[Prescribed under Rule 7(2) of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)]

APPLICATION FOR LICENCE OR PERMISSION

This form is to be used in the following cases:—

(a) Registered industrial undertakings or undertakings in respect of which a licence or permission has been granted proposing to produce or manufacture new articles (*vide* section 11A of the Act).

(b) Registered industrial undertakings or undertakings in respect of which a licence or permission has been granted proposing to effect substantial expansions (*vide* clause (d) of sub-section (1) of section 13 of the Act).

(c) Registered industrial undertakings or undertakings in respect of which a licence or permission has been granted proposing to change the location of the whole or any part of the undertaking (*vide* clause (e) of sub-section (1) of section 13 of the Act).

NOTE:—Where the proposal involves the issue of capital for which consent has to be obtained under the Capital Issue (Continuance of Control) Act, 1947, an application for the consent should be made simultaneously in the form prescribed for that purpose to the Controller of Capital Issues, Ministry of Finance, Government of India, New Delhi.

1. Name and address of the applicant.
2. Name and address of the industrial undertaking. 1. Head Office. 2. Factory.
3. Number and date of registration or of licence or permission under this Act.
4. Scheduled industry or industries to which the articles already produced or manufactured relate.

NOTE:—Please fill in questions 5A, 5B, 5C as may be applicable to your case.

5(A) If it is proposed to manufacture new articles:

(a) Give the following details—

Particulars of the new articles	Scheduled industry or industries to which they relate	Monthly capacity proposed

(b) If the articles proposed to be manufactured will bear a new mark, as defined in the Trade Marks Act, 1940 (V of 1940), give particulars of the mark.

(c) If the articles are the subject of a new patent, give particulars of the patent.

(d) Is payment of any royalty envisaged? If so, give full details.

(e) Give a brief account of the circumstances which justify the manufacture of the new articles and the factors which you consider favourable.

(B) If it is proposed to effect a substantial expansion to the existing undertaking.

(a) State the lines of proposed expansion—

Name of product	Present monthly installed capacity	Expansion envisaged	*Monthly installed capacity after expansion

\*If any alteration is envisaged in the basis of number of working days per month and shifts per day, previously given at the time of registration or licensing, it should be clearly indicated.

(b) Give a brief account of the circumstances which justify the expansion of the existing unit and the factors which you consider favourable.



(C) If it is proposed to change the location of an undertaking give the following particulars:

- |                           |     |     |     |        |          |       |
|---------------------------|-----|-----|-----|--------|----------|-------|
| (1) Present location      | ... | ... | ... | Tehsil | District | State |
| (2) New location proposed | ... | ... | ... | Tehsil | District | State |

(3) Reasons for changing the location.

(4) Whether the change in location will affect the quality or quantity of the articles produced at present. If so, give full particulars of all changes anticipated.

6. Capital, if any, required for the purpose. How will it be secured? Whether by issue of fresh capital or in the form of loan or from other sources. Full details to be given including information whether fresh issues or loans have been applied for and the present stage of such applications.

7. Is any foreign collaboration or investment envisaged? If so, the extent and the nature of such collaboration. (Enclose a copy of the agreement, if any.)

8. Are foreign technicians required? Number and types of such technicians (approximate indication may be given).

9. Estimated requirement of main raw materials and their value.

Name of raw material	Indigenous or imported	Quantity used in previous year	Quantity required for full present capacity	Additional quantity necessary for expansion and its value

10. Requirements of capital equipment, if any.

(i) Imported

(a) from sterling areas.

(b) from dollar and hard currency areas.

(ii) Indigenous

11. Indicate your requirements, if any, of additional rail transport for movement of raw materials and finished products.

12. Additional land required, if any; whether it has been acquired or is available.

13. Additional power required and whether arrangements have been made therefor.

14. Additional water required and whether arrangements have been made therefor.

15. Staff and Labour	Existing	Additional requirements, if any, for production of new articles/effecting substantial expansion/changing the location
(a) Managerial		
(b) Supervisory—		
Technical		
Non-technical		
(c) Clerical		
(d) Labour—		
Skilled		
Semi-skilled		
Unskilled		
(e) Other categories, if any.		

Place.....

Date.....

Signature of applicant.

(To be filled in by the Government of India)

Date of receipt of the application.

Signature of the Receiving Officer.

<sup>22</sup>[FORM EE]—[Prescribed under Rule 7(2) of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)]

# APPLICATION FOR LICENCE OR PERMISSION

This form is to be used in the following cases:—

(1) Where an industrial undertaking which was required to be registered under section 10 but has not been registered within the time fixed for the purpose, proposes to carry on the business of that undertaking after the expiry of such period [*vide* clause (a) of sub-section (1) of section 13 of the Act.]

(2) Where an industrial undertaking, the registration in respect of which has been revoked under section 10A proposes to carry on the business of the undertaking after the revocation [*vide* clause (b) of sub-section (1) of section 13 of the Act.]

(3) Where an industrial undertaking to which the provisions of the Act did not originally apply but became applicable after the commencement of the Act for any reason, proposes to carry on the business of the undertaking after the expiry of three months from the date on which the provisions of the Act became so applicable [*vide* clause (c) of sub-section (1) of section 13 of the Act].

NOTE—Particulars given below should show the position as on the date of application unless otherwise directed in the questionnaire.

1. Name and address of the applicant.

2. Name of the industrial undertaking.

Address:—(a) Head Office, (b) Factory or Factories.

3. Ownership.

4. Names of proprietors, partners or Board of Directors and their addresses.

5. Name and address of the owner of the undertaking in terms of section 3(f) of the Act.

6. The scheduled industry or industries to which the articles manufactured or produced relate.

7. Capital structure—

(a) In the case of companies registered under the Indian Companies Act, 1913.

(i) Authorised Capital—	Number	Value	Total
Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(ii) Issued Capital—

Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(iii) Paid-up Capital—

Preference shares	...	...	...
Ordinary shares	...	...	...
Deferred shares	...	...	...
Any other class of shares	...	...	...

(iv) Debentures.

(v) Other borrowings.

(b) In the case of others.

(i) Capital invested by the owner excluding borrowings.

(ii) Shares of each of the partners or of members of an association.

(iii) Borrowings.

8. Name and address of Managing Agents, if any, and the principal clauses of the managing agency agreement.

9. A copy each of the last three years' Balance Sheets and Profit and Loss Accounts. (To be attached to each copy of the application).

10. (a) Foreign capital invested. Terms of agreement, if any, with foreign collaborator including terms in regard to royalty, etc.

(b) Details of foreign technicians employed.

## 11. \*Approximate land under control of the undertaking—

## (1) for factory and administration purposes—

- (a) in use
- (b) available for expansion.

## (2) for township and other facilities—

- (a) in use.
- (b) available for expansion.

\*(This is not applicable to mining concerns).

## 12. Water Supply—

## (a) Is it ample for the requirements of—

- (1) factory and
- (2) township or staff quarters (State approximate quantity).

## (b) Is it drawn from public supply?

## (c) Effluent problems, if any.

## 13. Power Supply—

## (a) Total requirements drawn from—

- (1) own generating station;
- (2) public supply.

## (b) In case of own station, give brief particulars of plant in operation.

14. (a) Nature of plant and equipment section by section. Main plant and machinery items grouped under different sections following the standard practice in vogue in each industry.

## (b) Replacement requirements over next five years.

## 15. Transport facilities for incoming raw materials and outgoing finished products.

## 16. Manufacturing activities.

## (a) Whether continuous or shift operation.

## (b) Number of shifts generally worked.

## (c) Number of working days in a month/year.

NOTE:—Allow for compulsory holidays and for possible interruptions arising from breakdowns, overhauling and maintenance repairs separately on the basis of your past experience.

## (d) \*Monthly installed capacity—

\*(State the number of working days in a month and the number of shifts in a day).

Name of the manufactured product	Capacity
17. Past production including bye-product during the last three calendar years.	

Name of principal product or bye-product	Quantity	Value
--	----------	-------

NOTE—In the case of seasonal industries, e.g., sugar, give figures relating to the season.

18. Staff and Labour employed:	Head office	Factory	Total
(a) Managerial			
(b) Supervisory—			
Technical			
Non-technical			
(c) Clerical			
(d) Labour—			
Skilled			
Semi-skilled			
Unskilled			
(e) Other categories, if any.			

19. (a) Whether any application was made for the registration of this undertaking under the Industries (Development and Regulation) Act, 1951? Give particulars of the No. and date of the application and of the reply thereto.

**REGISTRATION AND LICENSING OF INDUSTRIAL UNDERTAKINGS RULES, 1952 2457**

(b) If no application was made for the registration of this undertaking, give the reasons therefor.

20. Whether the registration of this undertaking has previously been revoked under section 10A of the Act. If so, give particulars of the letter of revocation.

21. Give the following particulars regarding your industrial undertaking as on 8th May 1952 or as on 1st October 1953, according as (a) or (b) of clause (bb) of section 3 of the Act applies to your case.

(i) The total number of staff and labour employed in the factory and head office.

(ii) Articles manufactured.

Place.....

Date.....

Signature of applicant.

(To be filled in by the Government of India.)

Date of receipt of the application.

Signature of the receiving Officer.

NOTE:—In the case of seasonal industries, e.g., sugar, give figures relating to the season.

<sup>25</sup>[FORM F]

[Prescribed under Rule 15(4) of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)]

Licence/Permission No.....

**GOVERNMENT OF INDIA**

**MINISTRY OF COMMERCE AND INDUSTRY**

*New Delhi, the*

195 .

An application No..... dated..... for a Licence/Permission having been received from..... for..... under Rule 7 of the Registration and Licensing of Industrial Undertakings Rules, 1952, the Central Government, in exercise of the powers conferred by Rule 15(2) of the said Rules, hereby grants this licence/permission to..... subject to the following\* conditions:—

(1)

(2)

(3)

( ) Any prospectus or other document by which the public is invited to subscribe capital for this undertaking shall contain the following statement:

"A Licence/Permission has been obtained from the Central Government for..... of which a copy is open to public inspection at the Head Office of the Company. It must be distinctly understood that in granting this Licence/Permission the Government of India do not take any responsibility of the financial soundness of this undertaking or for the correctness of any of the statements made or opinions expressed in regard to it".

(Seal of the Ministry)

(Signature of the Officer)

<sup>26</sup>[FORM G]

[Prescribed under Rule 19 of the Registration and Licensing of Industrial Undertakings Rules, 1952 (as revised)]

**REPORT ON THE PROGRESS MADE IN THE ESTABLISHMENT OF INDUSTRIAL UNDERTAKINGS.**

This form is to be used for reporting progress made in the following cases.

- (a) In the establishment of industrial undertakings or substantial expansions, whether registered or licensed;
- (b) In the manufacture of new articles;
- (c) In changing the location of industrial undertakings.

1. Scheduled industry to which the articles manufactured by the undertaking relate.
2. Name and address of the industrial undertaking.

<sup>25</sup> Subs. by Notification No. S.R.O. 1856 dated the 1st October 1953.

<sup>26</sup> Subs., *ibid.*

\* Conditions will vary according to the nature of the case.

3. Number and date of the Registration Certificate/Licence/Permission issued to the undertaking.

IN THE CASE OF ESTABLISHMENT OF INDUSTRIAL UNDERTAKINGS OR MANUFACTURE OF NEW ARTICLES.

4. Progress made in the raising of capital including foreign capital, if any.
5. What percentage in value of total requirements of capital equipment has been—
  - (a) ordered and received.
  - (b) ordered and not yet received.
6. Whether land has been acquired for the factory.
7. Progress made in the construction of the factory and the installation of plant and machinery.
8. Progress made in getting supply of power and water.
9. Progress made in the recruitment of foreign technicians, if any.
10. Staff and Labour employed before the implementation of the project—Now employed.
  - (a) Managerial
  - (b) Supervisory—
    - Technical
    - Non-Technical
  - (c) Clerical
  - (d) Labour—
    - Skilled
    - Semi-skilled
    - Un-skilled
  - (e) Other categories, if any.
11. Principal raw materials stocked
12. Product and bye-product now manufactured

Name of product or bye-product	*Present monthly installed capacity	Present daily output
--------------------------------	-------------------------------------	----------------------

IN THE CASE OF SUBSTANTIAL EXPANSIONS OR CHANGE OF LOCATION.

13. Progress made in the raising of capital including foreign capital, if any, required for the purpose.
14. Whether any land required for the undertaking has been acquired.
15. Progress made in the construction of factory buildings and the installation of plant and machinery at the new site.
16. Whether additional power and water required has been secured.
17. Progress made in the recruitment of foreign technicians, if any. Number and type secured.
18. What percentage in value of total requirement of the capital equipment has been—
  - (a) ordered and received.
  - (b) ordered and not yet received.
19. Staff and Labour employed before the substantial expansion or change of location was undertaken—Now employed.
  - (a) Managerial
  - (b) Supervisory—
    - Technical
    - Non-Technical
  - (c) Clerical
  - (d) Labour—
    - Skilled
    - Semi-skilled
    - Un-skilled
  - (e) Other categories, if any.
20. Product and bye-product manufactured

\*Basis of estimating installed capacity should be clearly stated, viz., whether operation is continuous or shiftwise, and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

Name of product or bye-product    \*Present monthly installed capacity    Present daily output

\*Basis of estimating installed capacity should be clearly stated, viz., whether operation is continuous or shiftwise and the number of days in a month and the number of shifts in a day assumed in estimating monthly capacity.

Place..

Date..

Signature of the holder of Registration Certificate/Licence/Permission.

## INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 1956

### Statement of Objects and Reasons<sup>1</sup>

The Industries (Development and Regulation) Act, 1951, which has brought under the control of the Union 42 industries by reason of the declaration contained in section 2 of that Act, enables the Government to secure the development of those industries in conformity with its industrial policy. The Schedule is now proposed to be amended in order to bring within the control of the Union the following new industries which are of all-India importance:—

(1) Ferro-alloys and special steels; (2) Lignite; (3) Television sets; (4) Teleprinters; (5) Electrical furnaces; (6) X-Ray equipment; (7) Abrasives and grinding wheels; (8) Earth-moving machinery, such as bull-dozers, dumpers, shovels, loaders, bucket wheel excavators, road rollers, etc.; (9) Typewriters and Calculating machines; (10) Air-conditioners and refrigerators; (11) Medical and surgical appliances such as surgical instruments, sterilisers, incubators, etc.; (12) Plastics moulding industries; (13) Industrial instruments; (14) Fine chemicals including photographic chemicals; (15) Synthetic resins and plastics; (16) Paints, varnishes and enamels; (17) Synthetic rubber; (18) Staple fibre; (19) Explosives, including gun-powder and safety fuses; (20) Insecticides, fungicides, weedicides, etc.; (21) Textile auxiliaries; (22) Textile accessories; (23) Textile Processing; (24) Photographic raw films and printing paper; (25) Pulp—wood pulp, mechanical, technical, including dissolving pulp; (26) Fermentation industries; (27) Food processing industries; (28) Hardboard, chipboard and strawboard; (29) Asbestos cement, insulating boards, gypsum boards, wall boards, etc.; (30) Matches and (31) Cigarettes.

Opportunity is taken to revise the Schedule as now proposed to be amended so that the industries are grouped together on a scientific basis.

2. A few minor difficulties which have been brought to light in the working of the Act are sought to be removed by the remaining amendments.

The first amendment in clause 2 provides for the licensing of industrial undertakings the registration of which has been revoked on the ground of the closure of the undertaking or the discontinuance of production of certain articles, etc. [Section 13(1)(b) at present applies only to cases where registration is revoked on the ground that it had been obtained by misrepresentation as to an essential fact]. The second amendment in this clause covers licensed undertakings which seek to effect substantial expansion.

The amendment in clause 5 provides for the licensing of undertakings which by reason of an exemption granted under section 29B did not require to be registered or licensed under the Act at the time of the commencement of the Act or at the time of their establishment or when they commenced manufacturing or producing new articles or when they sought to effect substantial expansions, as the case may be, and which are now to be licensed by reason of the cancellation of the exemption.

The amendments in clauses 3, 4 and 6 are consequential.

<sup>1</sup> Gazette of India Extraordinary, 1956, Part II—Section 2, page 840.

# INDUSTRIES (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 1956

*An Act further to amend the Industries (Development and Regulation) Act, 1951.*

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1956.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Amendment of section 13.**—In sub-section (1) of section 13 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) (hereinafter referred to as the principal Act),—

(i) in clause (b), the words "on the ground that it had been obtained by misrepresentation as to an essential fact" shall be omitted;

(ii) in clause (d), after the words "which has been registered", the words "or in respect of which a licence or permission has been issued" shall be inserted.

**3. Amendment of section 14.**—In section 14 of the principal Act, for the words and figures "or section 13", the words, figures and letter "section 13 or section 29B" shall be substituted.

**4. Amendment of section 24.**—In section 24 of the principal Act, in clause (i) of sub-section (1), after the words and figures "of section 13", the following shall be inserted, namely:—

"or of sub-section (2) of section 29B".

**5. Amendment of section 29B.**—Section 29B of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) Where any notification under sub-section (1) granting any exemption is cancelled, no owner of any industrial undertaking to which the provisions of section 10, section 11, section 11A or clause (d) of sub-section (1) of section 13 would have applied, if the notification under sub-section (1) had not been issued, shall carry on the business of the undertaking after the expiry of such period as may be specified in the notification cancelling the exemption except under and in accordance with a licence issued in this behalf by the Central Government and, in the case of a State Government, except under and in accordance with the previous permission of the Central Government.

(3) The provisions of this Act shall apply, so far as may be, in relation to the issue of a licence or permission to any industrial undertaking referred to in sub-section (2) as they apply in relation to the issue of a licence or permission to a new industrial undertaking".

**6. Amendment of section 30.**—In section 30 of the principal Act, in clause (i) of sub-section (2), for the words and figures "or section 13", the words, figures and letter "section 13 or section 29B" shall be substituted.

**7. Substitution of a new Schedule for the First Schedule.**—For the First Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE [See sections 2 and 3(i)]

Any industry engaged in the manufacture or production of any of the articles mentioned under each of the following headings or sub-headings, namely:—

## 1. METALLURGICAL INDUSTRIES:

*A. Ferrous:* (1) Iron and steel (Metal); (2) Ferro-alloys and special steels; (3) Iron and Steel castings and forgings; (4) Iron and Steel structurals; (5) Iron and Steel pipes; (6) Other products of iron and steel.

*B. Non-ferrous:* (1) Non-ferrous metals and alloys; (2) Semi-manufactures and manufactures.

## 2. FUELS:

(1) Coal, lignite, coke and their derivatives; (2) Mineral oil (crude oil), motor and aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydrocarbon oils and their blends including synthetic fuels, lubricating oils and the like; (3) Fuel gases—(coal gas, natural gas and the like).

## 3. BOILERS AND STEAM GENERATING PLANTS:

Boilers and steam generating plants

## 4. PRIME MOVERS (OTHER THAN ELECTRICAL GENERATORS):

(1) Steam engines and turbines; (2) Internal combustion engines.

## 5. ELECTRICAL EQUIPMENT:

(1) Equipment for generation, transmission and distribution of electricity including transformers; (2) Electrical motors; (3) Electrical fans; (4) Electrical lamps; (5) Electrical furnaces; (6) Electrical cables and wires; (7) X-ray equipment; (8) Electronic equipment; (9) Household appliances such as electric irons, heaters and the like; (10) Storage batteries; (11) Dry cells.

## 6. TELECOMMUNICATIONS:

(1) Telephones; (2) Telegraph equipment; (3) Wireless communication apparatus; (4) Radio receivers, including amplifying and public address equipment; (5) Television sets; (6) Teleprinters.

## 7. TRANSPORTATION:

(1) Aircraft; (2) Ships and other vessels drawn by power; (3) Railway locomotives; (4) Railway rolling stock; (5) Automobiles (motor cars, buses, trucks, motor cycles, scooters and the like); (6) Bicycles; (7) Others, such as fork lift trucks and the like

## 8. INDUSTRIAL MACHINERY:

A. *Major items of specialised equipment used in specific industries:*—(1) Textile machinery (such as spinning frames, carding machines, powerlooms and the like) including textile accessories; (2) Jute machinery; (3) Rayon machinery; (4) Sugar machinery; (5) Tea machinery; (6) Mining machinery; (7) Metallurgical machinery; (8) Cement machinery; (9) Chemical machinery; (10) Pharmaceuticals machinery; (11) Paper machinery.

B. *General items of machinery used in several industries, such as the equipment required for various 'unit processes':* (1) Size reduction equipment—crushers, ball mills and the like; (2) Conveying equipment—bucket elevators, skip hoists, cranes, derricks and the like; (3) Size separation units—screens, classifiers and the like; (4) Mixers and reactors—kneading mills, turbo mixers and the like; (5) Filtration equipment—filter presses, rotary filters and the like; (6) Centrifugal machines; (7) Evaporators; (8) Distillation equipment; (9) Crystallisers; (10) Driers; (11) Power driven pumps—reciprocating, centrifugal and the like; (12) Air and gas compressors and vacuum pipes (excluding electrical furnaces); (13) Refrigeration plants for industrial use.

C. *Other items of Industrial Machinery:* (1) Ball, roller and tapered bearings; (2) Speed reduction units; (3) Grinding wheels and abrasives.

## 9. MACHINE TOOLS:

Machine tools.

## 10. AGRICULTURAL MACHINERY:

(1) Tractors, harvestors and the like; (2) Agricultural implements.

## 11. EARTH-MOVING MACHINERY:

Bulldozers, dumpers, scrapers, loaders, shovels, drag lines, bucket wheel excavators, road rollers and the like.

## 12. MISCELLANEOUS MECHANICAL AND ENGINEERING INDUSTRIES:

(1) Plastic moulded goods; (2) Hand tools, small tools and the like; (3) Razor blades.

## 13. COMMERCIAL, OFFICE AND HOUSEHOLD EQUIPMENT:

(1) Typewriters; (2) Calculating machines; (3) Air conditioners and refrigerators; (4) Vacuum cleaners; (5) Sewing and knitting machines; (6) Hurricane lanterns.

## 14. MEDICAL AND SURGICAL APPLIANCES:

Surgical instruments—sterilisers, incubators and the like.

## 15. INDUSTRIAL INSTRUMENTS:

(1) Water meters, steam meters, electricity meters and the like; (2) Indicating, recording and regulating devices for pressure, temperature, rate of flow, weights, levels and the like; (3) Weighing machines.

## 16. SCIENTIFIC INSTRUMENTS:

Scientific instruments.

## 17. MATHEMATICAL, SURVEYING AND DRAWING INSTRUMENTS:

Mathematical, surveying and drawing instruments.

## 18. CHEMICALS:

(1) Fertilisers; (2) Inorganic heavy chemicals; (3) Organic heavy chemicals; (4) Fine chemicals including photographic chemicals; (5) Synthetic resins and plastics; (6) Paints, varnishes and enamels; (7) Synthetic rubbers; (8) Man-made fibres including regenerated cellulose-rayon, nylon and the like; (9) Coke oven by-products; (10) Coal tar distillation products like naphthalene, anthracene and the like; (11) Explosives including gun powder



and safety fuses; (12) Insecticides, fungicides, weedicides and the like; (13) Textile auxiliaries; (14) Miscellaneous chemicals.

19. PHOTOGRAPHIC RAW FILM AND PAPER:

(1) Cinema film; (2) Photographic amateur film; (3) Photographic printing paper.

20. DYE-STUFFS:

Dye-stuffs.

21. DRUGS AND PHARMACEUTICALS:

Drugs and pharmaceuticals.

22. TEXTILES (INCLUDING THOSE DYED, PRINTED OR OTHERWISE PROCESSED):

(1) made wholly or in part of cotton, including cotton yarn, hosiery and rope; (2) made wholly or in part of jute, including jute, twine and rope; (3) made wholly or in part of wool, including wool tops, woollen yarn, hosiery, carpets and druggets; (4) made wholly or in part of silk including silk yarn and hosiery; (5) made wholly or in part of synthetic, artificial (man-made) fibres, including yarn and hosiery of such fibres.

23. PAPER AND PULP INCLUDING PAPER PRODUCTS:

(1) Paper—writing, printing and wrapping; (2) Newsprint; (3) Paper board and straw board; (4) Paper for packaging (corrugated paper, kraft paper, paper bags, paper containers and the like); (5) Pulp—wood pulp, mechanical, technical, including dissolving pulp.

24. SUGAR:

Sugar.

25. FERMENTATION INDUSTRIES:

(1) Alcohol—Industrial and power; (2) Other products of fermentation industries.

26. FOOD PROCESSING INDUSTRIES:

(1) Canned fruits and fruit products; (2) Milk foods; (3) Malted foods; (4) Flour; (5) Other processed foods.

27. VEGETABLE OILS AND VANASPATHI:

(1) Vegetable oils, including solvent extracted oils; (2) Vanaspathi.

28. SOAPS, COSMETICS AND TOILET PREPARATIONS:

(1) Soaps; (2) Glycerine; (3) Cosmetics; (4) Perfumery; (5) Toilet preparations.

29. RUBBER GOODS:

(1) Tyres and tubes; (2) Surgical and medicinal products including prophylactics; (3) Footwear; (4) Other rubber goods.

30. LEATHER, LEATHER GOODS AND PICKERS:

Leather, leather goods and pickers.

31. GLUE AND GELATIN:

Glue and gelatin.

32. GLASS:

(1) Hollow ware; (2) Sheet and plate glass; (3) Optical glass; (4) Glass wool; (5) Laboratory ware; (6) Miscellaneous ware.

33. CERAMICS:

(1) Fire bricks; (2) Refractories; (3) Furnace lining bricks—acidic, basic and neutral; (4) China ware and pottery; (5) Sanitary ware.

34. CEMENT AND GYPSUM PRODUCTS:

(1) Portland cement; (2) Asbestos-cement; (3) Insulating boards; (4) Gypsum boards, wall boards and the like.

35. TIMBER PRODUCTS:

(1) Plywood; (2) Hardboard, including fibre-board, chip-board and the like; (3) Matches; (4) Miscellaneous (furniture components, bobbins, shuttles and the like).

36. DEFENCE INDUSTRIES:

Arms and ammunition.

37. MISCELLANEOUS INDUSTRIES:

Cigarettes.

*Explanation 1.*—The articles specified under each of the headings Nos. 3, 4, 5, 6, 7, 8, 10, 11 and 13 shall include their component parts and accessories.

*Explanation 2.*—The articles specified under each of the headings Nos. 18, 20 and 21 shall include the intermediates required for their manufacture.

# APPENDICES



## THE PHILADELPHIA CHARTER<sup>1</sup>

### *Declaration concerning the Aims and Purposes of International Labour Conference.*

#### I

The Conference reaffirms the fundamental principles on which the Organisation is based and, in particular, that:

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried on with unrelenting vigour within each nation and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

#### II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organisation that lasting peace can be established only if it is based on social justice, the Conference affirms that;

- (a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity of economic security and equal opportunity;
- (b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) it is a responsibility of the International Labour Organisation to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;
- (e) in discharging the tasks entrusted to it the International Labour Organisation, having considered all relevant economic and financial factors may include in its decisions and recommendations any provisions which it considers appropriate.

#### III

The Conference recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

- (a) full employment and the raising of standards of living;
- (b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- (e) the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- (g) adequate protection for the life and health of workers in all occupations;
- (h) provision for child welfare and maternity protection;

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<sup>1</sup> The General Conference of the International Labour Organisation in its Twenty-sixth Session held in Philadelphia on the 10th May 1944, has adopted the above Declaration of its aims and purposes and of the principles which should inspire the policy of its members.

- (i) the provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) the assurance of equality of educational and vocational opportunity.

## IV

Confident that the fuller and broader utilisation of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world. To assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full co-operation of the International Labour Organisation with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

## V

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilised world.

FUNDAMENTAL RIGHTS UNDER INDIAN CONSTITUTION<sup>1</sup>

\* \* \* \* \*

*General*

**13. Laws inconsistent with or in derogation of the fundamental rights.**—(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—(a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law; (b) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

*Right to Equality*

**14. Equality before law.**—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

**15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.**—(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—  
(a) access to shops, public restaurants, hotels and places of public entertainment; or  
(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

\* \* \* \* \*

**16. Equality of opportunity in matters of public employment.**—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

<sup>1</sup> Part III of the Constitution of India which came into force on the 26th of January 1950 contains Fundamental Rights (Article 12 to Article 35) applicable to all States in India from 26th January, 1950 and Jammu and Kashmir from 14th May, 1954.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

*Right to Freedom*

**19. Protection of certain rights regarding freedom of speech, etc.—**(1) All citizens shall have the right—(a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; (f) to acquire, hold and dispose of property; and (g) to practise any profession, or to carry on any occupation, trade or business.

\* \* \* \* \*

**20. Protection in respect of conviction for offences.—**(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

**21. Protection of life and personal liberty.—**No person shall be deprived of his life or personal liberty except according to procedure established by law.

**22. Protection against arrest and detention in certain cases.—**(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

\* \* \* \* \*

*Right against Exploitation*

**23. Prohibition of traffic in human beings and forced labour.—**(1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

**24. Prohibition of employment of children in factories, etc.—**No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

*Right to Freedom of Religion*

**25. Freedom of conscience and free profession, practice and propagation of religion.—**

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

*Cultural and Educational Rights.*

**29. Protection of interests of minorities.—**(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

*Right to Property.*

**31. Compulsory acquisition of property.—**(1) No person shall be deprived of his property save by authority of law.

<sup>2</sup>(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property

<sup>2</sup> Subs. by the Constitution (Fourth Amendment) Act, 1955, s. 2.

so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given; and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.

\* \* \* \* \*

#### *Right to Constitutional Remedies.*

**32. Remedies for enforcement of rights conferred by this Part.**—(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice of the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

\* \* \* \* \*

**35. Legislation to give effect to the provisions of this Part.**—Notwithstanding anything in this Constitution,—

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws—(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and (ii) for prescribing punishment for those acts which are declared to be offences under this Part; and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372<sup>3</sup>, continue in force until altered or repealed or amended by Parliament.

*Explanation.*—In this article, the expression “law in force” has the same meaning as in article 372<sup>3</sup>.

### DIRECTIVE PRINCIPLES OF STATE POLICY IN INDIA<sup>1</sup>

\* \* \* \* \*

**37. Application of the principles contained in this Part.**—The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

**38. State to secure a social order for the promotion of welfare of the people.**—The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

**39. Certain principles of policy to be followed by the State.**—The State shall, in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is

<sup>3</sup> This Article deals with continuance in force of existing laws and their adaptation.

<sup>1</sup> Part IV of the Constitution of India applicable to all States in India, but not applicable to the State of Jammu and Kashmir.

equal pay for equal work for both men and women, (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that childhood and youth are protected against exploitation and against moral and material abandonment.

**40. Organisation of village panchayats.**—The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

**41. Right to work, to education and to public assistance in certain cases.**—The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

**42. Provision for just and humane conditions of work and maternity relief.**—The State shall make provision for securing just and humane conditions of work and for maternity relief.

**43. Living wages, etc., for workers.**—The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

**44. Uniform civil code for the citizens.**—The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

**45. Provision for free and compulsory education for children.**—The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

\* \* \* \* \*

**47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.**—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health.

\* \* \* \* \*

**50. Separation of judiciary from executive.**—The State shall take steps to separate the judiciary from the executive in the public services of the State.

**51. Promotion of international peace and security.**—The State shall endeavour to—  
(a) promote international peace and security; (b) maintain just and honourable relations between nations; (c) foster respect for international law and treaty obligations in the dealings of organised people with one another; and (d) encourage settlement of international disputes by arbitration.

## STATES AND UNION TERRITORIES IN INDIA

### FIRST SCHEDULE—[Articles 1 and 4]<sup>1</sup>

#### I. THE STATES

1. *Andhra Pradesh*—The territories specified in sub-section (1) of section 3 of the Andhra State Act, 1953 and the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956.

2. *Assam*—The territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas, but excluding the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951.

3. *Bihar*—The territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as

<sup>1</sup> The First Schedule to the Constitution of India as amended by the States Reorganisation Act, 1956, the Bihar and West Bengal (Transfer of Territories) Act, 1956 and the Constitution (seventh Amendment) Act, 1956.



if they formed part of that Province, but excluding the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.

4. *Bombay*—The territories specified in sub-section (1) of section 8 of the States Reorganisation Act, 1956.

5. *Kerala*—The territories specified in sub-section (1) of section 5 of the States Reorganisation Act, 1956.

6. *Madhya Pradesh*—The territories specified in sub-section (1) of section 9 of the States Reorganisation Act, 1956.

7. *Madras*—The territories which immediately before the commencement of this Constitution were either comprised in the Province of Madras or were being administered as if they formed part of that Province and the territories specified in section 4 of the States Reorganisation Act, 1956, but excluding the territories specified in sub-section (1) of section 3 and sub-section (1) of section 4 of the Andhra State Act, 1953 and the territories specified in clause (b) of sub-section (1) of section 5, section 6 and clause (d) of sub-section (1) of section 7 of the States Reorganisation Act, 1956.

8. *Mysore*—The territories specified in sub-section (1) of section 7 of the States Reorganisation Act, 1956.

9. *Orissa*—The territories which immediately before the commencement of this Constitution were either comprised in the Province of Orissa or were being administered as if they formed part of that Province.

10. *Punjab*—The territories specified in section 11 of the States Reorganisation Act, 1956.

11. *Rajasthan*—The territories specified in section 10 of the States Reorganisation Act, 1956.

12. *Uttar Pradesh*—The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being administered as if they formed part of that Province.

13. *West Bengal*—The territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954 and also the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.

14. *Jammu and Kashmir*—The territory which immediately before the commencement of this Constitution was comprised in the Indian State of Jammu and Kashmir.

## II. THE UNION TERRITORIES

1. *Delhi*—The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Delhi.

2. *Himachal Pradesh*—The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the name of Himachal Pradesh and Bilaspur.

3. *Manipur*—The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Manipur.

4. *Tripura*—The territory which immediately before the commencement of this Constitution was being administered as if it were a Chief Commissioner's Province under the name of Tripura.

5. *The Andaman and Nicobar Islands*—The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of the Andaman and Nicobar Islands.

6. *The Laccadive, Minicoy and Amindivi Islands*—The territory specified in section 6 of the States Reorganisation Act, 1956.

## INTERNATIONAL LABOUR CODE, 1919-1956

Conventions and Recommendations adopted by the International Labour Conference held at its different Sessions have to-day come to be known as International Labour Code.

This Code at present consists of 104 Conventions and 102 Recommendations covering various subjects.

## I. CONVENTIONS

(The date of coming into force is shown in brackets after each Convention. Asterisk against a Convention indicates its ratification by India and x indicates ratification subsequently denounced—total ratifications being 23, out of which two were denounced).

## FIRST SESSION (WASHINGTON, 1919).

- \*1. Hours of Work (Industry) (13th June 1921).
- x2. Unemployment (14th July 1921).
- 3. Maternity Protection (13th June 1921).
- \*4. Night Work (Women) (13th June 1921).
- \*5. Minimum Age (Industry) (13th June 1921).
- \*6. Night Work of Young Persons (Industry) (13th June 1921).

## SECOND SESSION (GENOA, 1920).

- 7. Minimum Age (Sea) (27th September 1921).
- 8. Unemployment Indemnity (Shipwreck) (16th March 1923).
- 9. Placing of Seamen (23rd November 1921).

## THIRD SESSION (GENEVA, 1921).

- 10. Minimum Age (Agriculture) (31st August 1923).
- \*11. Right of Association (Agriculture) (11th May 1923).
- 12. Workmen's Compensation (Agriculture) (26th February 1923).
- 13. White Lead (Painting) (31st August 1923).
- \*14. Weekly Rest (Industry) (19th June 1922).
- \*15. Minimum Age (Trimmers and Stokers) (20th November 1922).
- \*16. Medical Examination of Young Persons (20th November 1922).

## SEVENTH SESSION (GENEVA, 1925).

- 17. Workmen's Compensation (Accidents) (1st April 1927).
- \*18. Workmen's Compensation (Occupational Diseases) (1st April 1927).
- \*19. Equality of Treatment (Accident Compensation) (8th September 1926).
- 20. Night Work (Bakeries) (26th May 1928).

## EIGHTH SESSION (GENEVA, 1926).

- \*21. Inspection of Emigrants (29th December 1927).

## NINTH SESSION (GENEVA, 1926).

- \*22. Seamen's Articles of Agreement (4th April 1928).
- 23. Repatriation of Seamen (16th April 1928).

## TENTH SESSION (GENEVA, 1927).

- 24. Sickness Insurance (Industry) (15th July 1928).
- 25. Sickness Insurance (Agriculture) (15th July 1928).

## ELEVENTH SESSION (GENEVA, 1928).

- \*26. Minimum Wage Fixing Machinery (14th June 1930).

## TWELFTH SESSION (GENEVA, 1929).

- \*27. Marking of Weight (Packages Transported by Vessels) (9th March 1932).
- 28. Protection against Accidents (Dockers) (1st April 1932).

## FOURTEENTH SESSION (GENEVA, 1930).

- \*29. Forced Labour (1st May 1932).
- 30. Hours of Work (Commerce and Offices) (29th August 1933).

## FIFTEENTH SESSION (GENEVA, 1931).

- 31. Hours of Work (Coal Mines).

## SIXTEENTH SESSION (GENEVA, 1932).

- \*32. Protection against Accidents (Dockers) (Revised) (30th Oct. 1934).
- 33. Minimum Age (Non-Industrial Employment) (6th June 1935).

## SEVENTEENTH SESSION (GENEVA, 1933).

- 34. Fee-Charging Employment Agencies (18th October 1936).
- 35. Old-Age Insurance (Industry, etc.) (18th July 1937).
- 36. Old-Age Insurance (Agriculture) (18th July 1937).
- 37. Invalidity Insurance (Industry, etc.) (18th July, 1937).
- 38. Invalidity Insurance (Agriculture) (18th July 1937).
- 39. Survivors' Insurance (Industry, etc.) (8th November 1946).
- 40. Survivors' Insurance (Agriculture) (29th September 1949).

## EIGHTEENTH SESSION (GENEVA, 1934).

- x41. Night Work (Women) (Revised) (22nd November 1936).
- 42. Workmen's Compensation (Occupational Diseases) (Revised) (17th June 1936).

- 43. Sheet-Glass Works (13th January 1938).
- 44. Unemployment Provision (10th June 1938).

NINETEENTH SESSION (GENEVA, 1935).

- \*45. Underground Work (Women) (30th May 1937).
- 46. Hours of Work (Coal Mines) (Revised).
- 47. Forty-Hour Week.
- 48. Maintenance of Migrants' Pension Rights (10th August 1938).
- 49. Reduction of Hours of Work (Glass-Bottle Works) (10th June 1938).

TWENTIETH SESSION (GENEVA, 1936).

- 50. Recruiting of Indigenous Workers (8th September 1939).
- 51. Reduction of Hours of Work (Public Works).
- 52. Holidays with Pay (22nd September 1939).

TWENTY-FIRST SESSION (GENEVA, 1936).

- 53. Officers' Competency Certificates (29th March 1939).
- 54. Holidays with Pay (Sea).
- 55. Shipowners' Liability (Sick and Injured Seamen) (29th October 1939).
- 56. Sickness Insurance (Sea) (9th December 1949).
- 57. Hours of Work and Manning (Sea).

TWENTY-SECOND SESSION (GENEVA, 1936).

- 58. Minimum Age (Sea) (Revised) (11th April 1939).

TWENTY-THIRD SESSION (GENEVA, 1937).

- 59. Minimum Age (Industry) (Revised) (21st February 1941).
- 60. Minimum Age (Non-Industrial Employment) (Revised) (29th December 1950).
- 61. Reduction of Hours of Work (Textiles).
- 62. Safety Provisions (Building) (4th July 1942).

TWENTY-FOURTH SESSION (GENEVA, 1938).

- 63. Statistics of Wages and Hours of Work (22nd June 1940).

TWENTY-FIFTH SESSION (GENEVA, 1939).

- 64. Contracts of Employment (Indigenous Workers) (8th July 1948).
- 65. Penal Sanctions (Indigenous Workers) (8th July 1948).
- 66. Migration for Employment.
- 67. Hours of Work and Rest Periods (Road Transport).

TWENTY-EIGHTH SESSION (SEATTLE, 1946).

- 58. Food and Catering (Ships' Crews).
- 59. Certification of Ships Cooks.
- 70. Social Security (Seafarers).
- 71. Seafarers' Pensions.
- 72. Paid Vacations (Seafarers).
- 73. Medical Examination (Seafarers).
- 74. Certification of Able Seamen (14th July 1951).
- 75. Accommodation of Crews.
- 76. Wages, Hours of Work and Manning (Sea).

TWENTY-NINTH SESSION (MONTREAL, 1946).

- 77. Medical Examination of Young Persons (Industry) (29th December 1950).
- 78. Medical Examination of Young Persons (Non-Industrial Occupations) (29th Dec. 1950).
- 79. Night Work of Young Persons (Non-Industrial Occupations) (29th December 1950).
- \*80. Final Articles Revision (28th May 1947).

THIRTIETH SESSION (GENEVA, 1947).

- \*81. Labour Inspection (7th April 1950).
- 82. Social Policy (Non-Metropolitan Territories).
- 83. Labour Standards (Non-Metropolitan Territories).
- 84. Right of Association (Non-Metropolitan Territories).
- 85. Labour Inspectorates (Non-Metropolitan Territories).
- 36. Contracts of Employment (Indigenous Workers).

THIRTY-FIRST SESSION (SAN FRANCISCO, 1948).

- 87. Freedom of Association and Protection of the Right to Organise (4th July 1950).
- 88. Employment Service (10th August 1950).
- \*89. Night Work (Women) (Revised) (27th February 1951).
- \*90. Night Work of Young Persons (Industry) (Revised) (12th June 1951).
- Labour Standards (Non-Metropolitan Territories) Convention.
- Instrument of Amendment.

## THIRTY-SECOND SESSION (GENEVA, 1949).

- 91. Paid Vacations (Seafarers) (Revised).
- 92. Accommodation of Crews (Revised).
- 93. Wages, Hours of Work and Manning (Sea) (Revised).
- 94. Labour Clauses (Public Contracts).
- 95. Protection of Wages.
- 96. Fee Charging Employment Agencies (Revised) (18th July 1951).
- 97. Migration for Employment (Revised) (22nd January 1952).
- 98. Right to Organise and Bargain Collectively (18th July 1951).
- 99. Minimum Wage Fixing Machinery (Agriculture).
- 100. Equal Remuneration.

## THIRTY-FIFTH SESSION (GENEVA, 1952).

- 101. Holidays with Pay (Agriculture) Convention.
- 102. Social Security (Minimum Standards) Convention.
- 103. Maternity Protection Convention (Revised).

## THIRTY-EIGHTH SESSION (GENEVA, 1955).

- 104. Abolition of Penal Sanctions (Indigenous Workers).

## II. RECOMMENDATIONS

## FIRST SESSION (WASHINGTON, 1919).

- 1. Unemployment.
- 2. Reciprocity of Treatment.
- 3. Anthrax Prevention.
- 4. Lead Poisoning (Women and Children).
- 5. Labour Inspection (Health Services).
- 6. White Phosphorus.

## SECOND SESSION (GENEVA, 1920).

- 7. Hours of Work (Fishing).
- 8. Hours of Work (Inland Navigation).
- 9. National Seamen's Codes.
- 10. Unemployment Insurance (Seamen).

## THIRD SESSION (GENEVA, 1921).

- 11. Unemployment (Agriculture).
- 12. Maternity Protection (Agriculture).
- 13. Night Work of Women (Agriculture).
- 14. Night Work of Children and Young Persons (Agriculture).
- 15. Vocational Education (Agriculture).
- 16. Living-in Conditions (Agriculture).
- 17. Social Insurance (Agriculture).
- 18. Weekly Rest (Commerce).

## FOURTH SESSION (GENEVA, 1922).

- 19. Migration Statistics.

## FIFTH SESSION (GENEVA, 1923).

- 20. Labour Inspection.

## SIXTH SESSION (GENEVA, 1924).

- 21. Utilisation of Spare Time.

## SEVENTH SESSION (GENEVA, 1925).

- 22. Workmen's Compensation (Minimum Scale).
- 23. Workmen's Compensation (Jurisdiction).
- 24. Workmen's Compensation (Occupational Diseases).
- 25. Equality of Treatment (Accident Compensation).

## EIGHTH SESSION (GENEVA, 1926).

- 26. Migration (Protection of Females at Sea).

## NINTH SESSION (GENEVA, 1926).

- 27. Repatriation (Ship Masters and Apprentices).
- 28. Labour Inspection (Seamen).

## TENTH SESSION (GENEVA, 1927).

- 29. Sickness Insurance.

## ELEVENTH SESSION (GENEVA, 1928).

- 30. Minimum Wage-Fixing Machinery.

## TWELFTH SESSION (GENEVA, 1929).

- 31. Prevention of Industrial Accidents.
- 32. Power Driven Machinery.
- 33. Protection against Accidents (Dockers) Reciprocity.
- 34. Protection against Accidents (Dockers) Consultations of Organisations.

## FOURTEENTH SESSION (GENEVA, 1930)

- 35. Forced Labour (Indirect Compulsion).
- 36. Forced Labour (Regulation).
- 37. Hours of Work (Hotels, etc.).
- 38. Hours of Work (Theatres, etc.).
- 39. Hours of Work (Hospitals, etc.).

## SIXTEENTH SESSION (GENEVA, 1932).

- 40. Protection against Accidents (Dockers) Reciprocity.
- 41. Minimum Age (Non-Industrial Employment).

## SEVENTEENTH SESSION (GENEVA, 1933).

- 42. Employment Agencies.
- 43. Invalidity, Old Age and Survivors' Insurance.

## EIGHTEENTH SESSION (GENEVA, 1934).

- 44. Unemployment Provision.

## NINETEENTH SESSION (GENEVA, 1935).

- 45. Unemployment (Young Persons).

## TWENTIETH SESSION (GENEVA, 1936).

- 46. Elimination of Recruiting.
- 47. Holidays with Pay.

## TWENTY-FIRST SESSION (GENEVA, 1936).

- 48. Seamen's Welfare in Ports.
- 49. Hours of Work and Manning (Sea).

## TWENTY-THIRD SESSION (GENEVA, 1937).

- 50. Public Works (International Co-operation).
- 51. Public Works (National Planning).
- 52. Minimum Age (Family Undertakings).
- 53. Safety Provisions (Building).
- 54. Inspection (Building).
- 55. Co-operation in Accident Prevention (Building).
- 56. Vocational Education (Building).

## TWENTY-FIFTH SESSION (GENEVA, 1939).

- 57. Vocational Training.
- 58. Contracts of Employment (Indigenous Workers).
- 59. Labour Inspectorates (Indigenous Workers).
- 60. Apprenticeship.
- 61. Migration for Employment.
- 62. Migration for Employment (Co-operation between States).
- 63. Control Books (Road Transport).
- 64. Night Work (Road Transport).
- 65. Methods of Regulating Hours (Road Transport).
- 66. Rest Periods (Private Chauffeurs).

## TWENTY-SIXTH SESSION (PHILADELPHIA, 1944).

- 67. Income Security.
- 68. Social Security (Armed Forces).
- 69. Medical Care.
- 70. Social Policy in Dependent Territories.
- 71. Employment (Transition from War to Peace).
- 72. Employment Service.
- 73. Public Works (National Planning).

## TWENTY-SEVENTH SESSION (PARIS, 1945).

- 74. Social Policy in Dependent Territories (Supplementary Provisions).

## TWENTY-EIGHTH SESSION (SEATTLE, 1946).

- 75. Seafarers' Social Security (Agreements).
- 76. Seafarers (Medical Care for Dependents).
- 77. Vocational Training (Seafarers).
- 78. Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews).

## TWENTY-NINTH SESSION (MONTREAL, 1946).

- 79. Medical Examination of Young Persons.
- 80. Night Work of Young Persons (Non-Industrial Occupations).

## THIRTIETH SESSION (GENEVA, 1947).

- 81. Labour Inspection.
- 82. Labour Inspection (Mining and Transport).

## THIRTY-FIRST SESSION (SAN FRANCISCO, 1948)

- 83. Employment Service.

## THIRTY-SECOND SESSION (GENEVA, 1949).

- 84. Labour Clauses (Public Contracts).
- 85. Protection of Wages.
- 86. Migration for Employment (Revised).
- 87. Vocational Guidance.

## THIRTY-THIRD SESSION (GENEVA, 1950).

- 88. Vocational Training (Adults).

## THIRTY-FOURTH SESSION (GENEVA, 1951).

- 89. Minimum Wage-Fixing Machinery (Agriculture).
- 90. Equal Remuneration.
- 91. Collective Agreements.
- 92. Voluntary Conciliation and Arbitration.

## THIRTY-FIFTH SESSION (GENEVA, 1952).

- 93. Holidays with Pay (Agriculture).
- 94. Co-operation at the Level of the Undertaking.
- 95. Maternity Protection.

## THIRTY-SIXTH SESSION (GENEVA, 1953).

- 96. Minimum Wages (Coal Mines).
- 97. Protection of Workers' Health.

## THIRTY-SEVENTH SESSION (GENEVA, 1954).

- 98. Holidays with Pay.

## THIRTY-EIGHTH SESSION (GENEVA, 1955)

- 99. Vocational Rehabilitation (Disabled).
- 100. Protection of Migrant Workers (Underdeveloped Countries).

## THIRTY-NINTH SESSION (GENEVA, 1956).

- 101. Vocational Training in Agriculture.
- 102. Welfare Facilities for Workers.

DEVELOPMENT OF LABOUR LEGISLATION IN INDIA, 1843-1956<sup>1</sup>

1843

Indian Slavery Act, 1843 (V of 1843).

1850

\*Apprentices Act, 1850 (XIX of 1850).

1855

\*Indian Fatal Accidents Act, 1855 (XIII of 1855).

1858

\*Madras Compulsory Labour Act, 1858 (I of 1858).

1859

Workmen's Breach of Contract Act, 1859 (VIII of 1859).

1860

Employers' and Workmen's (Disputes) Act, 1860 (IX of 1860).

1874

\*Foreign Recruiting Act, 1874 (IV of 1874).

1881

Indian Factories Act, 1881 (XV of 1881).

1882

Assam Labour and Emigration Act, 1882 (I of 1882).

<sup>1</sup> Labour laws passed by the Indian Legislative Assembly, Dominion Legislature, Constituent Assembly and Parliament with repeals, amendments and adaptations. The asterisk mark indicates an unrepealed Act.

1885

\*Land Acquisition (Mines) Act, 1885 (XVIII of 1885).

1891

Indian Factories (Amendment) Act, 1891 (XI of 1891).

1893

Inland Emigration Act, 1893 (VII of 1893).

1901

Assam Labour and Emigration Act, 1901 (VI of 1901).

Indian Mines Act, 1901 (VIII of 1901).

1908

Indian Emigration Act, 1908 (XVII of 1908).

Assam Labour and Emigration (Amendment) Act, 1908 (XI of 1908).

\*Indian Ports Act, 1908 (XV of 1908).

1911

Indian Factories Act, 1911 (XII of 1911).

1915

Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915)

1922

Indian Factories (Amendment) Act, 1922 (II of 1922).

Indian Ports (Amendment) Act, 1922 (XV of 1922).

\*Indian Emigration Act, 1922 (VII of 1922).

1923

Indian Mines Act, 1923 (IV of 1923).

\*Indian Boilers Act, 1923 (V of 1923).

\*Workmen's Compensation Act, 1923 (VIII of 1923).

Indian Factories (Amendment) Act, 1923 (IX of 1923).

\*Indian Merchant Shipping Act, 1923 (XXI of 1923).

1924

Repealing and Amending Act, 1924 (VII of 1924).

Criminal Tribes Act, 1924 (VI of 1924).

1925

Workmen's Breach of Contract (Repealing) Act, 1925 (III of 1925).

\*Cotton Ginning and Pressing Factories Act, 1925 (XII of 1925).

\*Provident Funds Act, 1925 (XIX of 1925).

\*Coal Grading Board Act, 1925 (XXXI of 1925).

Repealing and Amending Act, 1925 (XXXVII of 1925).

1926

\*Indian Trade Unions Act, 1926 (XVI of 1926).

\*Cotton Industry (Statistics) Act, 1926 (XX of 1926).

Indian Factories (Amendment) Act, 1926 (XXVI of 1926).

Workmen's Compensation (Amendment) Act, 1926 (XXIX of 1926)

1927

Repealing Act, 1927 (XII of 1927).

Assam Labour and Emigration (Amendment) Act, 1927 (XXXI of 1927)

Indian Emigration (Amendment) Act, 1927 (XXVII of 1927)

1928

Indian Mines (Amendment) Act, 1928 (XIII of 1928).

Indian Trade Unions (Amendment) Act, 1928 (XV of 1928).

1929

Workmen's Compensation (Amendment) Act, 1929 (V of 1929).

Trade Disputes Act, 1929 (VII of 1929).

Indian Boilers (Amendment) Act, 1929 (IX of 1929).

\*Indian Income-Tax (Provident Fund Relief) Act, 1929 (XII of 1929).

1930

Indian Railways (Amendment) Act, 1930 (XIV of 1930).

1931

Indian Merchant Shipping (Amendment) Act, 1931 (IX of 1931).

Indian Ports (Amendment) Act, 1931 (XI of 1931).

<sup>2</sup> Chapter IXA, viz., Special Provisions relating to certain classes of Provident Fund in the Indian Income-tax Act, 1922 was inserted by this Act.

Indian Factories (Amendment) Act, 1931 (XIII of 1931).

Indian Mines (Amendment) Act, 1931 (XXI of 1931).

#### 1932

Employers' and Workmen's (Disputes) Repealing Act, 1932 (II of 1932)

Trade Disputes (Amendment) Act, 1932 (XIX of 1932).

\*Tea Districts Emigrant Labour Act, 1932 (XXII of 1932).

Indian Emigration (Amendment) Act, 1932 (XVI of 1932).

#### 1933

\*Children (Pledging of Labour) Act, 1933 (II of 1933).

Workmen's Compensation (Amendment) Act, 1933 (XV of 1933).

Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

Indian Merchant Shipping (Second Amendment) Act, 1933 (XXV of 1933)

#### 1934

Trade Disputes (Extending) Act, 1934 (XIII of 1934).

\*Indian Dock Labourers' Act, 1934 (XIX of 1934).

Factories Act, 1934 (XXV of 1934).

#### 1935

Indian Mines (Amendment) Act, 1935 (V of 1935).

Factories (Amendment) Act, 1935 (XI of 1935).

#### 1936

\*Payment of Wages Act, 1936 (IV of 1936).

Factories (Amendment) Act, 1936 (VIII of 1936).

Indian Mines (Amendment) Act, 1936 (XI of 1936).

Code of Civil Procedure (Amendment) Act, 1936 (XXI of 1936).

#### 1937

Government of India (Adaptation of Indian Laws) Order, 1937

Workmen's Compensation (Amendment) Act, 1937 (VII of 1937)

Code of Civil Procedure (Second Amendment) Act, 1937 (IX of 1937).

Indian Boilers (Amendment) Act, 1937 (XI of 1937).

Repealing and Amending Act, 1937 (XX of 1937).

Payment of Wages (Amendment) Act, 1937 (XXII of 1937).

Indian Mines (Amendment) Act, 1937 (XXIX of 1937).

#### 1938

Workmen's Compensation (Amendment) Act, 1938 (IX of 1938)

Trade Disputes (Amendment) Act, 1938 (XVII of 1938)

Indian Emigration (Amendment) Act, 1938 (XXI of 1938)

\*Employer's Liability Act, 1938 (XXIV of 1938).

\*Employment of Children Act, 1938 (XXVI of 1938)

#### 1939

\*Motor Vehicles Act, 1939 (IV of 1939)

Indian Merchant Shipping (Amendment) Act, 1939 (VI of 1939)

\*Indian Income-tax (Amendment) Act, 1939 (VII of 1939).

Workmen's Compensation (Amendment) Act, 1939 (XIII of 1939)

Cotton Ginning and Pressing Factories (Amendment) Act, 1939 (XIV of 1939).

Employment of Children (Amendment) Act, 1939 (XV of 1939).

Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939).

Workmen's Compensation (Second Amendment) Act, 1939 (XXII of 1939).

Repealing and Amending Act, 1939 (XXXIV of 1939).

#### 1940

Indian Emigration (Amendment) Act, 1940 (VIII of 1940)

\*Arbitration Act, 1940 (X of 1940).

National Service (European British Subjects) Act, 1940 (XVIII of 1940)

Coal Mines Safety (Stowing) Amendment Act, 1940 (XI of 1940)

Factories (Amendment) Act, 1940 (XVII of 1940).

Indian Mines (Amendment) Act, 1940 (XXIV of 1940).

National Service (Technical Personnel) Ordinance, 1940 (II of 1940).

Payment of Wages (Amendment) Ordinance, 1940 (III of 1940).

War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940).

National Service (Technical Personnel) Amendment Ordinance, 1940 (XI of 1940).

\* Chapter IXB, viz., Special Provisions relating to certain classes of Superannuation Fund was inserted in the Indian Income-tax Act, 1922 by this Amending Act.



## 1941

- Factories (Amendment) Act, 1941 (XVI of 1941).
- \*Mines Maternity Benefit Act, 1941 (XIX of 1941).
- War Injuries Ordinance, 1941 (VII of 1941).
- Active Service Ordinance, 1941 (X of 1941).
- \*Essential Services Maintenance Ordinance, 1941 (XI of 1941).

## 1942

- Workmen's Compensation (Amendment) Act, 1942 (I of 1942).
- Cotton Ginning & Pressing Factories (Amendment) Act, 1942 (IX of 1942).
- \*Weekly Holidays Act, 1942 (XVIII of 1942).
- Industrial Statistics Act, 1942 (XIX of 1942).
- Repealing and Amending Act, 1942 (XXV of 1942).
- Coal Mines Safety (Stowing) Amendment Ordinance, 1942 (XXV of 1942).
- Railways (Hours of Employment) Ordinance, 1942 (XLV of 1942).
- National Service (Technical Personnel) Amendment Ordinance, 1942 (VI & LI of 1942).
- War Injuries (Amendment) Ordinance, 1942.
- Motor Vehicles (Drivers) Ordinance, 1942 (V of 1942).
- Essential Services (Maintenance) (Amendment) Ordinance, 1942 (XXVI and XXXVIII of 1942).
- War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942).
- Railways Employment of Military Personnel Ordinance, 1942 (LIII of 1942).

## 1943

- Mines Maternity Benefit (Amendment) Act, 1943 (XVIII of 1943).
- Motor Vehicles (Drivers) Amendment Act, 1943 (XIX of 1943).
- \*War Injuries (Compensation Insurance) Act, 1943 (XXIII of 1943).
- Factories (Control of Dismantling) Ordinance, 1943 (XXXI of 1943).
- National Service (Technical Personnel) Amendment Ordinance, 1943 (XXVII of 1943).

## 1944

- Coal Mines Safety (Stowing) Amendment Act, 1944 (III of 1944).
- Factories (Amendment) Act, 1944 (XIV of 1944).
- Coal Mines Labour Welfare Fund Ordinance, 1944 (VII of 1944).
- Coal Mines Labour Welfare Fund (Amendment) Ordinance 1944 (XXVII of 1944).

## 1945

- Factories (Amendment) Act, 1945 (III of 1945).
- Repealing and Amending Act, 1945 (VI of 1945).
- Mines Maternity Benefit (Amendment) Act, 1945 (X of 1945).
- Mines (Amendment) Ordinance, 1945 (XVII of 1945).
- Factories (Control of Dismantling) Amendment Ordinance, 1945 (I of 1945).
- War Injuries (Compensation Insurance) Amendment Ordinance, 1945 (XLI of 1945).

## 1946

- Workmen's Compensation (Amendment) Act, 1946 (I of 1946).
- Indian Mines (Amendment) Act, 1946 (II of 1946).
- Factories (Amendment) Act, 1946 (X of 1946).
- Provident Funds (Amendment) Act, 1946 (XI of 1946).
- \*Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).
- \*Mica Mines Labour Welfare Fund Act, 1946 (XXII of 1946).
- National Service (Technical Personnel) Amendment Ordinance, 1946 (IX of 1946).

## 1947

- Factories (Amendment) Act, 1947 (V of 1947).
- \*Industrial Disputes Act, 1947 (XIV of 1947).
- \*Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947).
- Indian Boilers (Amendment) Act, 1947 (XXXIV of 1947).
- Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947).

## 1948

- Repealing and Amending Act, 1947 (II of 1948).
- \*Dock Workers (Regulation of Employment) Act, 1948 (IX of 1948).
- \*Minimum Wages Act, 1948 (XI of 1948).
- \*Employees' State Insurance Act, 1948 (XXXIV of 1948).
- \*Coal Mines Provident Fund and Bonus Schemes Act, 1948 (XLVI of 1948).
- \*Factories Act, 1948 (LXIII of 1948).
- \*Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948).
- \*Territorial Army Act, 1948 (LVI of 1948).
- Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
- Coal Mines Provident Fund and Bonus Schemes Ordinance, 1948 (VII of 1948).

## 1949

Indian Emigration (Amendment) Act, 1949 (III of 1949).  
 Coal Mines Labour Welfare Fund (Amendment) Act, 1949 (XXVIII of 1949).  
 Dock Workers (Regulation of Employment) Amendment Act, 1949 (XXIX of 1949).  
 Repealing and Amending Act, 1949 (XL of 1949).  
 Indian Merchant Shipping (Amendment) Act, 1949 (LIII of 1949).  
 Industrial Disputes (Banking and Insurance Companies) Act, 1949 (LIV of 1949).  
 Industrial Tribunals Payment of Bonus (National Savings Certificate) Ordinance, 1949 (XI of 1949).  
 Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949).  
 Industrial Disputes (Banking and Insurance Companies) Second Ordinance, 1949 (XXVIII of 1949).

## 1950

Sholapur Spinning and Weaving Company (Emergency Provisions) Act, 1950 (XXVIII of 1950).  
 Repealing and Amending Act, 1950 (XXXV of 1950).  
 Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950).  
 Minimum Wages (Amendment) Act, 1950 (LVI of 1950).  
 Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1950 (LXXX of 1950).  
 Adaptation of Laws Order, 1950.  
 Adaptation of Laws (Second Amendment) Order, 1950.  
 Constitution (Amendment of the First and Fourth Schedules) Order, 1950.  
 Minimum Wages (Extension of Time) Ordinance, 1950 (XVII of 1950).

## 1951

Constitution (First Amendment) Act, 1951.  
 \*Part B States (Laws) Act, 1951 (III of 1951).  
 Employers Liability (Amendment) Act, 1951 (V of 1951).  
 Minimum Wages (Amendment) Act, 1951 (XVI of 1951).  
 Coal Mines Safety (Stowing) Amendment Act, 1951 (XVII of 1951).  
 Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1951 (XXI of 1951).  
 \*Marking of Heavy Packages Act, 1951 (XXXIX of 1951).  
 \*Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 (XL of 1951).  
 Indian Merchant Shipping (Amendment) Act, 1951 (XLII of 1951).  
 Employment of Children (Amendment) Act, 1951 (XLVIII of 1951).  
 Employees State Insurance (Amendment) Act, 1951 (LIII of 1951).  
 \*Industries (Development and Regulation) Act, 1951 (LXV of 1951).  
 \*Plantations Labour Act, 1951 (LXIX of 1951).  
 Adaptation of Laws (Third Amendment) Order, 1951.  
 Employees' Provident Funds Ordinance, 1951 (VIII of 1951).  
 Industrial Disputes (Amendment) Ordinance, 1951 (IX of 1951).

## 1952

Constitution (Second Amendment) Act, 1952.  
 \*Coal Mines (Conservation and Safety) Act, 1952 (XII of 1952).  
 Industrial Disputes (Amendment) Act, 1952 (XVIII of 1952).  
 \*Employees' Provident Funds Act, 1952 (XIX of 1952).  
 Criminal Tribes Laws (Repeal) Act, 1952 (XXIV of 1952).  
 Territorial Army (Amendment) Act, 1952 (XXXIII of 1952).  
 \*Mines Act, 1952 (XXXV of 1952).  
 Repealing and Amending Act, 1952 (XLVIII of 1952).  
 \*Reserve and Auxiliary Air Forces Act, 1952 (LXII of 1952).  
 Adaptation of Laws (Fourth Amendment) Order, 1952.  
 Coal Mines (Conservation and Safety) Ordinance, 1952 (I of 1952).

## 1953

Industries (Development and Regulation) Amendment Act, 1953 (XXVI of 1953).  
 Andhra State Act, 1953 (XXX of 1953).  
 \*Collection of Statistics Act, 1953 (XXXII of 1953).  
 Employees' Provident Funds (Amendment) Act, 1953 (XXXVII of 1953).  
 Repealing and Amending Act, 1953 (XLII of 1953).  
 Industrial Disputes (Amendment) Act, 1953 (XLIII of 1953).  
 Employees' Provident Funds (Amendment) Ordinance, 1953 (I of 1953).  
 Industrial Disputes (Amendment) Ordinance, 1953 (V of 1953).

\* The Collection of Statistics Act, 1953 has come into force from the 10th of November, 1956 repealing the Industrial Statistics Act, 1942.

## 1954

Constitution (Third Amendment) Act, 1954.  
 Factories (Amendment) Act, 1954 (XXV of 1954).  
 Minimum Wages (Amendment) Act, 1954 (XXXVI of 1954).  
 Industrial Disputes (Amendment) Act, 1954 (XLVIII of 1954).  
 Himachal Pradesh and Bilaspur (New States) Act, 1954 (XXXII of 1954).  
 Industrial Disputes (Banking Companies) Commencement of Decision Ordinance, 1954 (VII of 1954).

## 1955

Constitution (Fourth Amendment) Act, 1955.  
 Constitution (Fifth Amendment) Act, 1956.  
 Working Journalists (Industrial Disputes) Act, 1955 (I of 1955).  
 Industrial Disputes (Appellate Tribunal) Amendment Act, 1955 (XXIX of 1955).  
 \*Industrial Disputes (Banking Companies) Decision Act, 1955 (XLI of 1955).  
 \*Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (XLV of 1955).  
 Industrial Disputes (Appellate Tribunal) Amendment Ordinance, 1955 (III of 1955).

## 1956

Constitution (Sixth Amendment) Act, 1956.  
 Constitution (Seventh Amendment) Act, 1956.  
 Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (XXXVI of 1956).  
 Industrial Disputes (Amendment) Act, 1956 (XLI of 1956).  
 Indian Railways (Amendment) Act, 1956 (LIX of 1956).  
 States Reorganisation Act, 1956 (XXXVII of 1956).  
 Bihar and West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).  
 Industries (Development and Regulation) Amendment Act, 1956.  
 Employees Provident Funds (Amendment) Act, 1956.  
 Minimum Wages (Amendment) Act, 1956.

RESOLUTION ON INDUSTRIAL TRUCE<sup>1</sup>

This Conference considers that the increase in industrial production which is so vital to the economy of the country cannot be achieved without the fullest co-operation between labour and management and stable and friendly relations between them. The employer must recognise the proper role of labour in industry and the need to secure for labour fair wages and working conditions; labour for its part must give equal recognition to its duty in contributing to the increase of the national income without which a permanent rise in the general standard of living cannot be achieved. Mutual discussion of all problems common to both and a determination to settle all disputes without recourse to interruption in or slowing down of production should be the common aim of employers and labour. The system of remuneration to capital as well as labour must be so devised that while in the interests of the consumers and the primary producers excessive profits should be prevented by suitable measures of taxation and otherwise, both will share the product of their common effort after making provision for payment of fair wages to labour, a fair return on capital employed in the industry and reasonable reserves for the maintenance and expansion of the undertaking.

For attaining these objectives, this Conference recommends:

(a) that the fullest use should be made of statutory and other machinery for the resolution of industrial disputes in a just and peaceful manner; where it does not exist, it should be created without delay. Such machinery should as far as possible be uniform throughout India.

(b) that the establishment of machinery, Central, Regional and Functional, for the study and determination of fair wages and conditions of labour, and fair remuneration for capital, and methods for the association of labour in all matters concerning industrial production, such as the formation of Central, Regional and Unit Production Committees.

<sup>1</sup> A Tripartite Conference to discuss some urgent problems relating to industrial development in India and to bring industrial peace, was convened by the Industry and Supply Minister, Government of India in December 1947 and this Resolution was unanimously adopted by the representatives of Governments, employers and labour.

(c) that the constitution in each industrial undertaking of Works Committees representing management and duly elected representatives of labour for the settlement of any dispute which may arise from day to day.

(d) that, as a first step towards improving the standard of living of workers, immediate attention should be devoted to the problem of housing of industrial labour; the cost of such housing should be shared in suitable proportions between the Government, employers and labour, the share of labour being given in the shape of a reasonable rent.

The principles enunciated above having been accepted, this Conference calls upon labour and management to agree to maintain industrial peace and to avert lock-outs, strikes or slowing down of production during the next three years.

This Conference invites labour and management to assist Government to secure, promote and guarantee such agreements between the parties as will usher in a period of contented and orderly advancement towards a co-operative Commonwealth.

## RESOLUTION REGARDING SOCIALIST PATTERN OF SOCIETY<sup>1</sup>

This House having considered the economic situation in India and the Policy of the Government in relation thereto, is of the opinion that—

1. The policy of Government is in harmony with the policy statement of the 6th April, 1948;
2. The objective of our economic policy should be a socialistic pattern of society; and
3. Towards this end the tempo of economic activity in general and industrial development in particular should be stepped up to the maximum possible extent

## INDUSTRIAL POLICY RESOLUTION, 1956<sup>2</sup>

No. 91/CF/48 dated the 30th April, 1956—The Government of India set out in their Resolution dated the 6th April, 1948, the policy which they proposed to pursue in the industrial field. The Resolution emphasised the importance to the economy of securing a continuous increase in production and its equitable distribution, and pointed out that the State must play a progressively active role in the development of industries. It laid down that besides arms and ammunition, atomic energy and railway transport, which would be the monopoly of the Central Government, the State would be exclusively responsible for the establishment of new undertakings in six basic industries—except where, in the national interest, the State itself found it necessary to secure the co-operation of private enterprise. The rest of the industrial field was left open to private enterprise though it was made clear that the State would also progressively participate in this field.

2. Eight years have passed since this declaration on Industrial Policy. These eight years have witnessed many important changes and developments in India. The Constitution of India has been enacted, guaranteeing certain Fundamental Rights and enunciating Directive Principles of State Policy. Planning has proceeded on an organised basis, and the First Five Year Plan has recently been completed. Parliament has accepted the socialist pattern of society as the objective of social and economic policy. These important developments necessitate a fresh statement of industrial policy, more particularly as the Second Five Year Plan will soon be placed before the country. This policy must be governed by the principles laid down in the Constitution, the objective of socialism, and the experience gained during these years.

3. The Constitution of India, in its preamble, has declared that it aims at securing for all its citizens—

“JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation.”

In its Directive Principles of State Policy, it is stated that—

“The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.”<sup>1</sup>

<sup>1</sup> Adopted by the Lok Sabha on the 21st December, 1954.

<sup>2</sup> The Resolution was published in the Gazette of India Extraordinary, Part I—Section 1, dated the 30th April, 1956 at pages 137-144.

Further that—

"The State shall, in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that childhood and youth are protected against exploitation and against moral and material abandonment."

4. These basic and general principles were given a more precise direction when Parliament accepted in December, 1954, the socialist pattern of society as the objective of social and economic policy. Industrial policy, as other policies, must therefore be governed by these principles and directions.

5. In order to realise this objective, it is essential to accelerate the rate of economic growth and to speed up industrialisation and, in particular, to develop heavy industries and machine making industries, to expand the public sector, and to build up a large and growing co-operative sector. These provide the economic foundations for increasing opportunities for gainful employment and improving living standards and working conditions for the mass of the people. Equally, it is urgent, to reduce disparities in income and wealth which exist to-day, to prevent private monopolies and the concentration of economic power in different fields in the hands of small numbers of individuals. Accordingly, the State will progressively assume a predominant and direct responsibility for setting up new industrial undertakings and for developing transport facilities. It will also undertake State trading on an increasing scale. At the same time, as an agency for planned national development, in the context of the country's expanding economy, the private sector will have the opportunity to develop and expand. The principle of co-operation should be applied wherever possible and a steadily increasing proportion of the activities of the private sector developed along co-operative lines.

6. The adoption of the socialist pattern of society as the national objective, as well as the need for planned and rapid development, require that all industries of basic and strategic importance, or in the nature of public utility services, should be in the public sector. Other industries which are essential and require investment on a scale which only the State, in present circumstances, could provide, have also to be in the public sector. The State has therefore to assume direct responsibility for the future development of industries over a wider area. Nevertheless, there are limiting factors which make it necessary at this stage for the State to define the field in which it will undertake sole responsibility for further development, and to make a selection of industries in the development of which it will play a dominant role. After considering all aspects of the problem, in consultation with the Planning Commission, the Government of India have decided to classify industries into three categories, having regard to the part which the State would play in each of them. These categories will inevitably overlap to some extent and too great a rigidity might defeat the purpose in view. But the basic principles and objectives have always to be kept in view and the general directions hereafter referred to followed. It should also be remembered that it is always open to the State to undertake any type of industrial production.

7. In the first category will be industries the future development of which will be the exclusive responsibility of the State. The second category will consist of industries, which will be progressively State-owned and in which the State will therefore generally take the initiative in establishing new undertakings, but in which private enterprise will also be expected to supplement the effort of the State. The third category will include all the remaining industries, and their future development will, in general, be left to the initiative and enterprise of the private sector.

8. Industries in the first category have been listed in Schedule A of this Resolution. All new units in these industries, save where their establishment in the private sector has already been approved, will be set up only by the State. This does not preclude the expansion of the existing privately owned units, or the possibility of the State securing the co-operation of private enterprise in the establishment of new units when the national interests so require. Railways and air transport, arms and ammunition and atomic energy will, however, be developed as Central Government monopolies. Whenever co-operation with private enterprise is necessary, the State will ensure, either through majority participation in the capital or otherwise, that it has the requisite powers to guide the policy and control the operations of the undertaking.

9. Industries in the second category will be those listed in Schedule B. With a view to accelerating their future development, the State will increasingly establish new undertakings in these industries. At the same time private enterprise will also have the opportunity to develop in this field, either on its own or with State participation.

10. All the remaining industries will fall in the third category, and it is expected that their development will be undertaken ordinarily through the initiative and enterprise of the private sector, though it will be open to the State to start any industry even in this category. It will be the policy of the State to facilitate and encourage the development of these industries in the private sector, in accordance with the programmes formulated in successive Five Year Plans, by ensuring the development of transport, power and other services, and by appropriate fiscal and other measures. The State will continue to foster institutions to provide financial aid to these industries, and special assistance will be given to enterprises organised on co-operative lines for industrial and agricultural purposes. In suitable cases, the State may also grant financial assistance to the private sector. Such assistance, especially when the amount involved is substantial, will preferably be in the form of participation in equity capital, though it may also be in part in the form of debenture capital.

11. Industrial undertakings in the private sector have necessarily to fit into the framework of the social and economic policy of the State and will be subject to control and regulation in terms of the Industries (Development and Regulation) Act and other relevant legislation. The Government of India, however, recognise that it would, in general, be desirable to allow such undertakings to develop with as much freedom as possible, consistent with the targets and objectives of the national plan. When there exist in the same industry both privately and publicly owned units, it would continue to be the policy of the State to give fair and non-discriminatory treatment to both of them.

12. The division of industries into separate categories does not imply that they are being placed in water-tight compartments. Inevitably, there will not only be an area of overlapping but also a great deal of dovetailing between industries in the private and the public sectors. It will be open to the State to start any industry not included in Schedule A and Schedule B when the needs of planning so require or there are other important reasons for it. In appropriate cases, privately owned units may be permitted to produce an item falling within Schedule A for meeting their own requirements or as by-products. There will be ordinarily no bar to small privately owned units undertaking production, such as the making of launches and other light-craft, generation of power for local needs and small scale mining. Further, heavy industries in the public sector may obtain some of their requirements of lighter components from the private sector, while the private sector in turn would rely for many of its needs on the public sector. The same principle would apply with even greater force to the relationship between large scale and small scale industries.

13. The Government of India would, in this context, stress the role of cottage and village and small scale industries in the development of the national economy. In relation to some of the problems that need urgent solutions, they offer some distinct advantages. They provide immediate large scale employment; they offer a method of ensuring a more equitable distribution of the national income and they facilitate an effective mobilisation of resources of capital and skill which might otherwise remain unutilised. Some of the problems that unplanned urbanisation tends to create will be avoided by the establishment of small centres of industrial production all over the country.

14. The State has been following a policy of supporting cottage and village and small scale industries by restricting the volume of production in the large scale sector, by differential taxation, or by direct subsidies. While such measures will continue to be taken, whenever necessary, the aim of the State policy will be to ensure that the decentralised sector acquires sufficient vitality to be self-supporting and its development is integrated with that of large scale industry. The State will, therefore, concentrate on measures designed to improve the competitive strength of the small scale producer. For this it is essential that the technique of production should be constantly improved and modernised, the pace of transformation being regulated so as to avoid, as far as possible, technological unemployment. Lack of technical and financial assistance, of suitable working accommodation and inadequacy of facilities for repair and maintenance are among the serious handicaps of small scale producers. A start has been made with the establishment of industrial estates and rural community workshops to make good these deficiencies. The extension of rural electrification and the availability of power at prices which the workers can afford will also be of considerable help. Many of the activities relating to small scale production will be greatly helped by the organisation of industrial co-operatives. Such co-operatives should be encouraged in every way and the State should give constant attention to the development of cottage and village and small scale industry.

15. In order that industrialisation may benefit the economy of the country as a whole, it is important that disparities in levels of development between different regions should be progressively reduced. The lack of industries in different parts of the country is very often determined by factors such as the availability of the necessary raw materials or other natural resources. A concentration of industries in certain areas has also been due to the ready availability of power, water supply and transport facilities which have been developed there. It is one of the aims of national planning to ensure that these facilities are steadily made available to areas which are at present lagging behind industrially or where there is greater need for providing opportunities for employment, provided the location is otherwise suitable. Only by securing a balanced and co-ordinated development of the industrial and the agricultural economy in each region, can the entire country attain higher standards of living.

16. This programme of industrial development will make large demands on the country's resources of technical and managerial personnel. To meet these rapidly growing needs for the expansion of the public sector and for the development of village and small scale industries, proper managerial and technical cadres in the public services are being established. Steps are also being taken to meet shortages at supervisory levels, to organise apprenticeship schemes of training on a large scale both in public and in private enterprises, and to extend training facilities in business management in universities and other institutions.

17. It is necessary that proper amenities and incentives should be provided for all those engaged in industry. The living and working conditions of workers should be improved and their standard of efficiency raised. The maintenance of industrial peace is one of the prime requisites of industrial progress. In a socialist democracy labour is a partner in the common task of development and should participate in it with enthusiasm. Some laws governing industrial relations have been enacted and a broad common approach has developed with the growing recognition of the obligations of both management and labour. There should be joint consultation and workers and technicians should, wherever possible, be associated progressively in management. Enterprises in the public sector have to set an example in this respect.

18. With the growing participation of the State in industry and trade, the manner in which these activities should be conducted and managed assumes considerable importance. Speedy decisions and a willingness to assume responsibility are essential if these enterprises are to succeed. For this, wherever possible, there should be decentralisation of authority and their management should be along business lines. It is to be expected that public enterprises will augment the revenues of the State and provide resources for further development in fresh fields. But such enterprises may sometimes incur losses. Public enterprises have to be judged by their total results and in their working they should have the largest possible measure of freedom.

19. The Industrial Policy Resolution of 1948 dealt with a number of other subjects which have since been covered by suitable legislation or by authoritative statements of policy. The division of responsibility between the Central Government and the State Governments in regard to industries has been set out in the Industries (Development and Regulation) Act. The Prime Minister, in his statement in Parliament on the 6th April 1949, has enunciated the policy of the State in regard to foreign capital. It is, therefore, not necessary to deal with these subjects in this resolution.

20. The Government of India trust that this restatement of their Industrial Policy will receive the support of all sections of the people and promote the rapid industrialisation of the country.

#### SCHEDULE A.

1. Arms and ammunition and allied items of defence equipment.
2. Atomic energy.
3. Iron and steel.
4. Heavy castings and forgings of iron and steel.
5. Heavy plant and machinery required for iron and steel production, for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government.
6. Heavy electrical plant including large hydraulic and steam turbines.
7. Coal and lignite.
8. Mineral oils.
9. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond.
10. Mining and processing of copper, lead, zinc, tin, molybdenum and wolfram.
11. Minerals specified in the Schedule to the Atomic Energy (Control of Production and Use) Order, 1953.

12. Aircraft.
13. Air transport.
14. Railway transport.
15. Shipbuilding.
16. Telephones and telephone cables, telegraph and wireless apparatus (excluding radio receiving sets).
17. Generation and distribution of electricity.

#### SCHEDULE B

1. All other minerals except "minor minerals" as defined in Section 3 of the Minerals Concession Rules, 1949.
2. Aluminium and other non-ferrous metals not included in Schedule 'A'.
3. Machine tools.
4. Ferro alloys and tool steels.
5. Basic and intermediate products required by chemical industries such as the manufacture of drugs, dyestuffs and plastics.
6. Antibiotics and other essential drugs.
7. Fertilizers.
8. Synthetic rubber.
9. Carbonisation of coal.
10. Chemical pulp.
11. Road transport.
12. Sea transport.

## AIMS & OBJECTS OF INTERNATIONAL & NATIONAL TRADE UNIONS<sup>1</sup>

### Aims and Methods of World Federation of Trade Unions

The World Federation of Trade Unions exists to improve the living and working conditions of the people of all lands to unite them in pursuit of the objectives sought by all freedom-loving peoples as set forth in the Declarations of the London World Trade Union Conference in February, 1945.

These aims and objects can only be fully attained by the establishment of a World Order in which all the resources of the world will be utilized for the benefit of all its peoples, the vast majority of whom are workers by hand and brain whose protection and whose progress depend upon the union of all their organized forces nationally and internationally.

The World Federation of Trade Unions therefore proclaims its prime purposes to be:

(a) To organize and unite within its ranks the trade unions of the whole world, irrespective of considerations of race, nationality, religion, or political opinion; (b) To assist, wherever necessary, the workers in countries socially or industrially less developed, in setting up their trade unions; (c) To carry on the struggle for the extermination of all fascist forms of government and every manifestation of fascism, under whatever form it operates and by whatever name it may be known; (d) To combat war and the causes of war work for a stable and enduring peace;

By giving full support to the establishment of a powerful and effective international organization armed with all necessary power to prevent aggression and maintain peace;

By supporting the widest possible international co-operation in the social economic spheres and measures for the industrial development and full utilization of the resources of the undeveloped countries;

By carrying on a struggle against reaction and for the full exercise of the democratic rights and liberties of all peoples;

<sup>1</sup> There are two International Trade Unions Organisations, viz., World Federation of Trade Unions constituted in September 1945 with headquarters in Paris and International Confederation of Free Trade Unions established in December 1949 with headquarters in Brussels.

At present there are four Central Trade Union Organisations in India—All India Trade Union Congress, Indian National Trade Union Congress, Hind Mazdoor Sabha and United Trades Union Congress established in 1920, 1947, 1949 and 1950 and their membership in 1953 being 2,10,914; 9,19,258; 3,73,459 and 1,29,242 respectively.



(e) To represent the interest of world labour in all international agencies whose responsibility will be to solve the problems of world organization, resting upon agreements or conventions concluded between the United Nations, and in such other international bodies as may be decided upon by the World Federation of Trade Unions; (f) To organize the common struggle of trade unions of all countries;

Against all encroachments on the economic and social rights of the workers and on democratic liberties.

For the satisfaction of the need of the workers for security of full employment;

For the progressive improvement of wages, hours and working and living conditions of the workers;

For full and adequate social security to protect workers and their families against the hazards of unemployment, sickness, accident and old age;

For the adoption of all other measures furthering the social and economic well being of the workers;

(g) To plan and organise the education of trade union members on the question of international labour unity and to awaken them to a consciousness of their individual responsibility for the realization of trade union purposes and aims.

In order to achieve these ends, the World Federation of Trade Unions bases its work on the following principles: (1) Full democracy within the trade unions of all countries and close collaboration among them; (2) Permanent contact with affiliated Trade Union Organizations, fraternal support and assistance to them in their work; (3) Systematic exchange of information and experience in trade union work with the object of strengthening the solidarity of the international labour movement; (4) Co-ordination of action by the workers organizations for the realization of their international aims and decisions; (5) Protection of the interests of the workers in emigration and immigration; (6) Using every available means of making known and explaining the purposes for which the World Federation of Trade Unions is organized, the objectives which it seeks, its programme for the achievement of these objectives and its decisions on specific issues.

### **Aims of the International Confederation of Free Trade Unions**

The International Confederation of Free Trade Unions declares its aims to be:

(a) to establish a powerful and effective international organisation, composed of free and democratic trade unions, independent of any external domination and pledged to the task of promoting the interests of working people throughout the world and of enhancing the dignity of labour; (b) to seek the universal recognition and application of the rights of trade union organisation; (c) to provide assistance in the establishment, maintenance and development of trade union organisation, particularly in economically and socially under-developed countries; (d) to promote activities designed to organise mutual assistance among national centres; (e) to co-ordinate the defence of free trade unions against any campaign aiming at their destruction or at the restriction of their rights or at the infiltration and subjugation of labour organisations by totalitarian or other anti-labour forces; (f) to further the economic, social and cultural interests of the people of countries suffering from the ravages and after-effects of the war, assisting by all practicable means in the rebuilding of their economies and developing measures of mutual economic aid over as wide an area as possible; (g) to aid in the establishment of full employment, the improvement of working conditions and the raising of the standard of living of peoples of all countries of the world; (h) to encourage the development of the resources of all countries in order to further the economic, social and cultural progress of the peoples of the world, and particularly of under-developed countries and non-self-governing territories; (i) to advocate, with a view to raising the general level of prosperity, increased and properly-planned economic co-operation among the nations in such a way as will encourage the development of wider economic units and freer exchange of commodities and to seek full participation of workers' representatives in official bodies dealing with these questions; (j) to protect, maintain and expand the system of free labour and to eliminate forced labour everywhere; (k) to represent the free trade union movement in all international agencies which exist or may be set up to perform functions affecting the social and economic conditions of working people and to further the implementation of their decisions whenever desirable; (l) to establish and extend association with international organisations, both governmental and non-governmental, in work which will further the aims of the International Confederation of Free Trade Unions in protecting and advancing the interests of the peoples generally and guaranteeing human rights; (m) to support the establishment of a world system of collective security, but

pending its attainment, to further and support within the Charter of the United Nations all measures that are necessary for assuring the defence of world democracy and the freedom of nations against any totalitarian aggression; (n) to engage in and foster educational and publicity work with the object of increasing the knowledge and understanding of national and international problems confronting the workers so as to enable them to make their struggle more efficacious; to further the objectives of the Confederation; and to realise the widest unity of the workers in the International Confederation of Free Trade Unions—the home of free trade unionism; (c) to furnish the affiliated organisations with information about the organisational conditions and the development of the trade union movement in the member countries and about the regulation of wages and working conditions, the labour legislation and other kindred matters in these countries.

### Aims and Objects of All India Trade Union Congress

The objects of the A. I. T. U. C. shall be:

(a) To establish Socialist State in India; (b) to socialise and nationalise the means of production, distribution and exchange as far as possible; (c) to ameliorate the economic and social conditions of the working class; (d) to watch, promote, safeguard and further the interests, rights and privileges of the workers in all matters relating to their employment; (e) to secure and maintain for the workers (i) the freedom of speech; (ii) the freedom of press; (iii) the freedom of association; (iv) the freedom of assembly; (v) the right to strike, and (vi) the right to work or maintenance; (f) to support and actively participate in the struggle for India's political freedom, from the point of view of the working class; (g) to co-ordinate the activities of the Labour Unions affiliated to the A. I. T. U. C., and (h) to abolish political or economic advantage based on caste, creed, community, race or religion.

The A. I. T. U. C. shall endeavour to further the aforesaid objects by all legitimate, peaceful and democratic methods such as legislation, education, propaganda, mass meetings, negotiations, demonstrations and, in the last resort by strikes and similar other methods, as the A. I. T. U. C. may, from time to time, decide.

### Aims and Objects of Indian National Trade Union Congress

The objects of the Congress shall be:

I. (i) To establish an order of society which is free from hindrances in the way of an all-round development of its individual members, which fosters the growth of human personality in all its aspects, and goes to the utmost limit in progressively eliminating social, political or economic exploitation and inequality, the profit motive in the economic activity and organisation of society and the anti-social concentration of power in any form; (ii) to place industry under national ownership and control in suitable form in order to realise the aforesaid objective in the quickest time; (iii) to organise society in such a manner as to ensure full employment and the best utilisation of its man-power and other resources; (iv) to secure increasing association of the workers in the administration of industry and their full participation in its control; (v) to promote generally the social, civic and political interest of the working class.

II. (i) To secure an effective and complete organisation of all categories of workers including agricultural labour; (ii) to guide and co-ordinate the activities of the affiliated organisations; (iii) to assist in the formation of Trade Unions; (iv) to promote the organisation of workers of each industry on a nationwide basis; (v) to assist in the formation of Regional or Provincial Branches of Federations.

III. (i) To secure speedy improvement of conditions of work and life and of the status of the workers in industry and society; (ii) to obtain for the workers various measures of social security, including adequate provision in respect of accidents, maternity sickness, old age and unemployment; (iii) to secure a living wage for every worker in normal employment and to bring about a progressive improvement in the workers' standard of life; (iv) to regulate hours and other conditions of work in keeping with the requirements of the workers in the matter of health, recreation and cultural development; (v) to secure suitable legislative enactments for ameliorating the condition of the workers and to ensure the proper enforcement of legislation for the protection and uplift of labour.

IV. (i) To establish just industrial relations; (ii) to secure redress of grievances, without stoppage of work, by means of negotiation and conciliation and failing these by arbitration or adjudication; (iii) where adjudication is not applied and settlement of disputes within a reasonable time by arbitration is not available for the redress of

grievances, to have recourse to other legitimate methods, including strikes or any suitable form of satyagraha; (w) to make the necessary arrangements for the efficient conduct and satisfactory and speedy conclusion of authorised strikes or satyagraha.

V: (i) To foster the spirit of solidarity, service, brotherhood, co-operation and mutual help among the workers; (ii) to develop in the workers a sense of responsibility towards industry and the community; (iii) to raise the workers' standard of efficiency and discipline.

The means to be adopted for the furtherance of the objects mentioned above shall be peaceful and consistent with truth.

### **Aims and Objects of Hind Mazdoor Sabha**

The objects of the Sabha shall be:

(i) To promote the economic, political, social and cultural interests of the Indian working class; (ii) to guide and co-ordinate the activities of affiliated organisations and assist them in their work; (iii) to watch, safeguard and promote the interests, rights and privileges of workers in all matters relating to their employment; (iv) to promote the formation of:—(a) federations of unions from the same industry or occupation, and (b) national unions of workers employed in the same industry or occupation; (v) to secure and maintain for the workers:—(a) freedom of association; (b) freedom of assembly; (c) freedom of speech; (d) freedom of press; (e) right to work or maintenance; (f) right to social security, and (g) right to strike; (vi) to organise for and promote the establishment of a democratic, socialist society in India; (vii) to promote the formation of co-operative societies and to foster workers' education; (viii) to co-operate with other organisations in the country and outside having similar aims and objects.

In the promotion and realisation of these aims and objects, the Sabha shall employ all legitimate, peaceful and democratic methods.

### **Aims and Objects of United Trades Union Congress**

The objects of the U. T. U. C. shall be:

(a) To establish a Socialist Society in India; (b) to establish a Workers' and Peasants' State in India; (c) to nationalise and socialise the means of production, distribution and exchange; (d) to safeguard and promote the interests, rights and privileges of the workers in all matters, social, cultural, economic and political; (e) to secure and maintain for the workers:—(i) freedom of speech; (ii) freedom of press; (iii) freedom of association; (iv) freedom of assembly; (v) right to strike; (vi) the right to work or maintenance and the right to social security; (f) to co-ordinate the activities of the Unions affiliated to the U. T. U. C.; (g) to bring about unity in the Trade Union movement.

In the promotion and realisation of the above aims and objects, the U. T. U. C. shall employ all legitimate, peaceful and democratic methods such as education, propaganda, mass meetings, negotiations, demonstrations, legislation, and the like, and, in the last resort, by strikes and similar other methods, as the U. T. U. C. may, from time to time, decide.

## **TRIPARTITE AND BIPARTITE MACHINERY IN INDIA<sup>1</sup>**

### **Indian Labour Conference**

#### **I. First Conference of Labour Ministers held at New Delhi on 22nd and 23rd January, 1940.**

- (1) Prevention and Settlement of Industrial Disputes.
- (2) Industrial Housing.
- (3) Holidays with Pay.
- (4) Collection of Statistics concerning Labour and Industry.

<sup>1</sup> The Whitley Commission in its Report on Labour in India in 1931 recommended the establishment, by statute, of an Industrial Council, as a permanent body, consisting of representatives of Government, employers and labour, for consultations, amongst others, on important labour questions and formulation of legislative policy concerning labour. In pursuance of the above recommendation, a permanent tripartite labour organisation, composed of an Indian Labour Conference and a Standing Labour Committee,

- (5) Extension of legislation to labour employed in Commercial Establishments and Shops.
- (6) Hours of night shift work.
- (7) Sickness Insurance.
- (8) Amendment of the Payment of Wages Act in the light of its working during the past few years.
- (9) Amendment of Section 5 of the Factories Act.
- (10) Delegation of power to Provincial Governments regarding Trade Unions whose objects are not confined to one Province.

SUPPLEMENTARY AGENDA

- (1) Unemployment Assistance.
- (2) Madras Weekly Payment of Wages Bill, 1939.
- (3) Legislation to relieve indebtedness among industrial workers.
- (4) Recognition of Trade Unions.

**II. Second Conference of Labour Ministers held at New Delhi on the 27th and 28th January, 1941.**

- (1) Amendment of the Trade Disputes Act, 1929.
- (2) Holidays with Pay.
- (3) Extension of legislation to labour employed in Commercial Establishments and Shops.
- (4) Amendment of Section 5 of the Factories Act.
- (5) Recognition of Trade Unions.
- (6) Extension of maternity benefits to women in coal mines.
- (7) Sickness Insurance.

**III. Third Conference of Labour Ministers held at New Delhi on the 30th and 31st January, 1942.**

- (1) Adjustment of wages to changes in cost of living.
- (2) Improving cost of living indices.
- (3) Sickness Insurance.
- (4) Holidays with Pay.
- (5) Night shift work.
- (6) Industrial fatigue resulting from the exemptions from the hours of work section of the Factories Act.
- (7) Provident Fund for industrial workers.
- (8) Amendment of the Workmen's Compensation Act.
- (9) Amendment of the Payment of Wages Act, 1936.

**IV. Fourth Session of Indian Labour Conference (First Tripartite Conference) held at New Delhi on the 7th August, 1942.**

- (1) General discussions on labour welfare and labour morale in wartime.
- (2) Provision of adequate A. R. P. measures including the provision of slit trenches or other shelters and of adequate air-raid services.
- (3) Propaganda, including the provision of wireless sets for the dissemination of correct news.
- (4) Maintenance of cost price grain shops to ensure steady supply of food-grains at reasonable prices to workers.

was established by the Central Government on the 7th August, 1942 at a conference of the representatives of the Central, Provincial Governments and Indian States and of the representatives of the employers and labour. The Five-year Labour Programme drawn by the Interim Congress Government in September 1946, suggested the constitution of a tripartite Industrial Committee for some important industries.

The Industries Development Committee at its third meeting held in May 1951, decided to set up a Joint Consultative Board of Industry and Labour consisting of three representatives, each of employers and labour. The first meeting of the Joint Consultative Board was held in July 1951 and in its fifth meeting held in February 1954, the Board was reconstituted as a non-official bipartite body functioning on a purely voluntary basis for effective implementation of agreements and conventions and assisting the growth of bipartite machinery at all levels. The first meeting of the reconstituted Board was held in July 1954.

- (5) Provision of stocks of grain for emergencies and adequate arrangements for cooking.
- (6) Provision of canteens particularly in places where workers' families have left.
- (7) Facilities for remitting allowances to families of workers.
- (8) Short breaks during work to enable production to be sustained at a high level.
- (9) Payment of wages in the event of suspension of work due to air-raid conditions.

#### **V. Fifth Session held at New Delhi on the 6th and 7th September, 1943.**

- (1) Involuntary unemployment due to shortage of coal, raw materials, etc.
- (2) Procedure for the Conference—Adoption of the Report.
- (3) Labour representation in Legislatures, Local Bodies and Statutory Committees.
- (4) Social Security: Minimum Wages.
- (5) Principles for fixing dearness allowance.
- (6) Provision for Standing Orders on the lines of provisions in Chapter V of Bombay Industrial Disputes Act, in large industrial concerns.
- (7) Statement by Provincial Governments regarding setting up of Tripartite Organisations in Provinces.
- (8) Model Provident Fund Rules.

#### **VI. Sixth Session held at New Delhi on the 27th and 28th October, 1944.**

- (1) Compulsory insurance of liability under the Workmen's Compensation Act, 1923.
- (2) Revision of the Trade Disputes Act, 1929.
- (3) Organisation of Employment in the transition from War to Peace.
- (4) Participation of State in Sickness Insurance Scheme for Industrial Labour in India.
- (5) Statutory Machinery for fixation of Minimum Wage.
- (6) Resolution proposed by the All-India Trade Union Congress on the procedure for amendment of Defence of India Rules affecting labour.
- (7) Special rations for workers doing heavy works.

#### **VII. Seventh Session held at New Delhi on the 27th and 28th November, 1945.**

- (1) Unemployment—(i) involuntary unemployment resulting from controls and (ii) in transition period.
- (2) Reduction of working hours under the Factories Act.
- (3) Minimum Wage legislation.
- (4) Attitude of Employment Exchanges during strikes and lock-outs.
- (5) Industrial Canteens.
- (6) Proposed amendment of the Workmen's Compensation Act, 1923.
- (7) Proposed legislation for compelling employers to frame rules regulating service rights of employees in industrial concerns.
- (8) Proposed amendment of the Trade Unions Act, 1926.

#### **VIII. Eighth Session held at New Delhi on the 21st and 22nd April, 1947.**

- (1) Report of action taken on the decisions of the previous meetings of the Labour Conference and Standing Labour Committee.
- (2) Brief report on Labour Policy and Administration during the previous year.
- (3) Report of the action taken on the Reports of the Labour Investigation Committee.
- (4) Replies of the Government of India to the I. L. O. Questionnaire and the Draft Conventions forwarded by the I. L. O. on the following subjects—(a) Organisation of Labour Inspection in Industrial and Commercial Undertakings; (b) Social Policy in Non-Metropolitan territories; and (c) Employment Service Organisation.
- (5) Industrial Employment (Standing Orders) Central Rules, 1946.
- (6) Desirability of collecting information relating to wages and conditions of work in distributive trades and services (Proposal made by Sind Government).
- (7) Attitude of Employment Exchanges during strikes and lock-outs.
- (8) Bill for regulating employment of Dock Labour.
- (9) Note on the Constitution of the Indian Labour Conference and Standing Labour Committee.

#### **IX. Ninth Session held at New Delhi on the 19th, 20th and 21st April, 1948.**

- (1) Report on Labour Policy and Administration.
- (2) A survey of the present position in regard to Works Committee.
- (3) Report on the activities of the Directorate-General of Resettlement and Employment.

- (4) Action taken on previous decisions of Indian Labour Conferences and Standing Labour Committees.
- (5) (A) Replies and Comments of the Government of India to the I. L. O. Questionnaires and Reports on (a) Wages—(i) fair wage clause in public contracts and (ii) protection of wages; (b) Freedom of Association and Protection of the Right to Organise; (c) Application of the Principles of the Right to Organise and Bargain Collectively, Collective Agreements, Conciliation and Arbitration and Co-operation between public authorities and employers and workers organisation; (d) Vocational guidance.
- (B) Revision of Conventions of the I. L. O. concerning persons employed in industry.
- (6) Implementation of the Industrial Statistics Act, 1942.
- (7) Compulsory Provident Fund for Industrial Workers.
- (8) Decasualisation of labour in main industries.
- (9) Implementation of the Resolution on Industrial Truce adopted at the Industries Conference held in December, 1947.

#### **X. Tenth Session held at New Delhi on the 20th, 21st & 22nd March, 1950.**

- (1) Labour Relations Bill, 1950.
- (2) Trade Unions Bill, 1950.

#### **XI. Eleventh Session held at New Delhi on the 11th and 12th August, 1951.**

- (1) Creation of Welfare Trust Funds on statutory basis.
- (2) Vocational Training and Apprenticeship.
- (3) Resolutions of the I. L. O. Industrial Committee on Iron and Steel regarding "Guaranteed Wages in the Iron and Steel Industry" and "Technological improvements in the Iron and Steel Industry and their effect on employment".
- (4) Practicability of amalgamating at least a part of existing dearness allowance with normal wage rates.
- (5) Employers' view point on certain matters affecting labour (not discussed as it was withdrawn by the sponsors).
- (6) Central Institute for Training of Factory Inspectors and Labour Officers.

#### **XII. Twelfth Session held at Nainital on the 8th to 11th October, 1952.**

- (1) Questionnaire on Industrial Relations.
- (2) Special review of the Tripartite Machinery.
- (3) Uniform standards for national and festival paid holidays in private undertakings.
- (4) Productivity Studies and Programmes.
- (5) Industrial Housing.

#### **XIII. Thirteenth Session held at Mysore on the 7th to 10th January, 1954.**

- (1) Statement of action taken on the conclusions reached at the 12th Session of the Indian Labour Conference held at Nainital in October, 1952.
- (2) Review of the I. L. O. Conferences and Committees held recently.
- (3) Composition of the Indian Labour Conference.
- (4) Technical Assistance.
- (5) Problems of Women Labour.
- (6) Wage-fixing Machinery.
- (7) Implementation of the Industrial Statistics (Labour) Rules.
- (8) Gorakhpur Labour Scheme.
- (9) Uniformity of legislation relating to maternity benefits.
- (10) Payment of Provident Fund dues to a subscriber before retirement.

#### **XIV. Fourteenth Session held at Bombay on the 14th to 16th May, 1955.**

##### **PART I.**

- (1) Industrial Relations—General Discussion.
- (2) Amendment of the Minimum Wages Act, 1948.
- (3) Desirability of extending the Employees' Provident Funds Act, 1952, to certain additional well-established industries.

- (4) Desirability of introducing an Unemployment Insurance Scheme in place of the present provisions of lay-off and retrenchment compensation, (at the instance of the All-India Manufacturers' Organisation).
- (5) Problems of Agricultural Workers.
- (6) Conditions of Child Labour and its protection.
- (7) The next Five Year Plan.
- (8) Appointment of a Wage Commission (at the instance of the Indian National Trade Union Congress).
- (9) Change in the name of "Working Class Cost of Living Index Numbers" used for the Labour Bureau series to "Consumer Price Index Numbers for Working Class".
- (10) Merger of a portion of dearness allowance with basic wages—General Discussion.

#### PART II.

- (1) Action taken on the decisions of the 13th Session of the Indian Labour Conference held at Mysore in January, 1954.
- (2) Review of I. L. O. Conferences and Committees held in 1954.
- (3) Proposals for Conventions and Recommendations on the agenda of the 38th Session of the International Labour Conference being held at Geneva, during June, 1955.

#### PART III.

- (1) Action taken on the Report of the First Session of the Committee on Conventions.
- (2) Report of the Second Session of the Committee on Conventions.

### STANDING LABOUR COMMITTEE

#### I. First Meeting held at New Delhi on the 30th November and 1st December, 1942.

- (1) War Time Legislation affecting labour.
- (2) Production—(a) Prevention of stoppages of work, (b) Technical Training Scheme, (c) Absenteeism, (d) Transfer of Labour, (e) Hours of work, (f) Industrial Health Research Board.
- (3) Earnings of Labour—(a) Dearness Allowances, (b) Profit Bonuses.
- (4) Labour Welfare.
- (5) Industrial Statistics Act—Collection of information regarding wages, hours of work, etc.
- (6) Shortage of small coins and payment of wages.
- (7) Procedure.

#### II. Second Meeting held at New Delhi on the 25th January, 1943.

- (1) Food supplied to industrial labour.
- (2) Joint Adjudication under Defence of India Rule 81A.
- (3) Deferred Bonuses.

#### III. Third Meeting held at Bombay on the 7th and 8th May, 1943.

- (1) Report of the Procedure Sub-Committee.
- (2) Fair Wage Clause in Government contracts.
- (3) A Plan for Labour Legislation and Labour Welfare during war-time—(a) Social Security, (b) Wages, (c) Welfare.
- (4) (a) Joint Production Committees in undertakings engaged on war work.  
(b) Labour Officers in Industrial Undertakings.
- (5) Working of the Defence of India Rule 81A.
- (6) Employment Exchanges.
- (7) Industrial Statistics Act (XIX of 1942).

#### IV. Fourth Meeting held at Lucknow on the 25th and 26th January, 1944.

- (1) Statutory Wage Control.
- (2) Scheme for the establishment of Employment Exchanges.
- (3) Model Provident Fund Rules.
- (4) Canteens for Workers.
- (5) Consideration of the Report of the Committee on Dearness Allowance.

- (6) Absenteeism.
- (7) Maintenance of Records of Service of Industrial Workers.
- (8) Amendment of the Factories Act consequent upon the change in the Indian Standard Time.

**V. Fifth Meeting held at New Delhi on the 27th June, 1944.**

- (1) The Indian Trade Unions (Amendment) Bill, 1943.
- (2) Draft Rules under the Industrial Statistics Act, 1942 for collection of statistics of trade disputes.
- (3) Monetary compensation to workers who have been refused leave.

**VI. Sixth Meeting held at New Delhi on the 17th March, 1945.**

- (1) Report on Health Insurance for Industrial Workers.
- (2) Changes in the constitution and functions of the Tripartite Organisation.

**VII. Seventh Meeting held at New Delhi on the 28th August, 1945.**

- (1) Report of the Sub-Committee on the constitution of the Tripartite Organisation.
- (2) Industrial Housing and the responsibility of the employer in connection therewith.
- (3) Draft Rules under the Factories (Amendment) Act, 1945, relating to holidays with pay.
- (4) Amendment of the Workmen's Compensation Act (VIII of 1923)—Definition of "workmen" (wage level).

**VIII. Eighth Meeting held at New Delhi on the 15th and 16th March, 1946.**

- (1) Amendment of the Trade Disputes Act (Improvement on Government Machinery for Conciliation and Adjudication).
- (2) Review of employment in industry and extent to which unemployment is likely to occur.
- (3) Possibilities of Welfare Trust Funds for industrial employees.

**IX. Ninth Meeting held at New Delhi on the 24th and 26th July, 1946.**

- (1) Legislation for Unregulated Factories.
- (2) Regulation of conditions of employment, etc. in business houses and commercial undertakings in urban areas.
- (3) Revision of the Indian Factories Act of 1934.
- (4) Holidays with pay—Desirability of provision for paid holidays to workers in mines, unregulated factories, plantations, seamen, dock labour, local board employees, etc.
- (5) Revision of the Employment of Children Act of 1939.
- (6) Revision of the Mines Act of 1923.
- (7) Report of the Housing Sub-Committee.
- (8) Amendments of the International Labour Organisation Constitution.
- (9) Consideration of the progress of work in the Directorate General of Resettlement and Employment.
- (10) International Labour Office Questionnaire on Protection of Children and Young Workers.
- (11) International Labour Office Questionnaire on Minimum Standards of Social Policy in Dependent Territories.

**X. Tenth Meeting held at New Delhi on the 15th, 16th and 17th April, 1948.**

- (1) (A) Replies and Comments of the Government of India to the I. L. O. Questionnaires and Reports on—(a) Wages—(i) fair wage clause in public contracts, (ii) protection of wages, (b) Freedom of Association and Protection of the Right to Organise, (c) Application of the Principles of the Right to Organise and Bargain Collectively, Collective Agreements, Conciliation and Arbitration and Co-operation between public authorities and employers' and workers' organisations, (d) Vocational guidance.
- (B) Revision of the I. L. O. Conventions concerning the night work of women and young persons.



- (2) Compulsory Provident Fund for Industrial Workers.
- (3) Decasualisation of labour in main industries.
- (4) Implementation of the Resolution on Industrial Truce adopted at the Industries Conference held in December, 1947.

#### **XI. Eleventh Meeting held at New Delhi on the 19th and 20th January, 1949.**

- (1) Implementation of the Industrial Statistics Act, 1942, for collection of labour statistics.
- (2) Amendments to the Indian Trade Unions Act, 1926, with a view to securing greater control over the working of the registered Trade Unions.
- (3) Disposal of the unexpanded accumulation under the War Injuries Compensation Insurance Scheme.
- (4) Scheme for Decasualisation of Dock Labour at Bombay.
- (5) Constitution of Welfare Trust Funds for industrial workers.

#### **XII. Twelfth Meeting held at New Delhi on the 2nd and 3rd November, 1950.**

- (1) Statement of action taken on decisions reached at the previous meetings of the Committee.
- (2) Constitution of Welfare Trust Funds for industrial workers.
- (3) Establishment of Contributory Provident Funds in industrial undertakings.
- (4) Uniformity in legislation relating to shops and commercial employees.
- (5) Necessity for tripartite agreements on the standard of compliance with the provisions of Factories Act, 1948, in respect of organised industries.
- (6) Retrenchment.

#### **XIII. Thirteenth Meeting held at New Delhi on 27th and 28th July, 1953.**

- (1) Special Review of the Tripartite Machinery.
- (2) Uniform standards for national and festival paid holidays in private industrial undertakings.
- (3) Productivity Studies and Programmes.
- (4) Payment of compensation for involuntary unemployment.
- (5) Central legislation for shops and commercial establishments.

#### **XIV. Fourteenth Meeting held at Madras on the 11th and 12th August, 1954.**

- (1) Statement showing the action taken on the conclusions, suggestions, etc., of the thirteenth session of the Standing Labour Committee held in New Delhi in July, 1953.
- (2) Consideration of the Report of the Committee on Conventions.
- (3) Conditions of work in the building and construction industry.
- (4) Amendment of the Factories Act so as to enable State Governments to exempt piece rate and daily rate workers from the provisions relating to overtime and weekly holidays.
- (5) Labour Welfare Funds.
- (6) Amendment of the Minimum Wage Act, 1948, to exclude the jurisdiction of the machinery provided for under the Industrial Disputes Act, 1947.
- (7) Condition of work in manganese mines.

#### **XV. Fifteenth Meeting held at New Delhi on the 4th and 5th April, 1956.**

- (1) Action taken on the conclusions of the 14th session of the Standing Labour Committee.
- (2) Report of the third session of the Committee on Conventions.
- (3) Amalgamation of a portion of Dearness Allowance with basic wages.
- (4) Payment of retrenchment compensation.
- (5) Legislation for transport workers.
- (6) Labour Welfare Funds.
- (7) Uniform standards for national and festival paid holidays.
- (8) Workers' Schools.
- (9) Creation of Gratuity Fund in factories.
- (10) Institution of awards for good performance of individual workers.
- (11) Extension of Provident Fund facilities to all industrial workers.
- (12) Permission to worker to contribute without limit to Employees' Provident Fund.

## **INDUSTRIAL COMMITTEE**

### **I. Industrial Committee on Plantations**

**(a) First Meeting held at New Delhi on the 8th and 9th January, 1948.**

- (1) Wages and connected matters.
- (2) Sickness and Maternity Benefits.
- (3) Housing.
- (4) Medical Aid.
- (5) Education.
- (6) Welfare activities.
- (7) Plantation Act and welfare cess.
- (8) Constitution of Tripartite Conference.
- (9) Trade Union Organisation.

**(b) Second Meeting held at New Delhi on the 31st March, 1st & 2nd April, 1948.**

- (1) Wage fixation.
- (2) Standards of medical care.
- (3) Outlines of Plantation Legislation.
- (4) Appointment of a Standing Committee.

**(c) Third Meeting held at New Delhi on the 4th and 5th November, 1950.**

- (1) Plantation Legislation.
- (2) Welfare measures for plantation workers.
- (3) Housing for plantation workers.
- (4) Abolition of kangany system.

**(d) Fourth Meeting held at Calcutta on the 19th and 20th December, 1952.**

- (1) Revision of the Minimum Wages Act.
- (2) Cash conversion of foodgrain concession.
- (3) Retrenchment and closure of gardens.
- (4) Surplus labour in tea gardens.
- (5) Suspension of the Plantations Labour Act.

**(e) Fifth Meeting held at Calcutta on the 30th and 31st December, 1954.**

- (1) Lay-off compensation for plantation workers.
- (2) Enforcement of the Plantations Labour Act, 1951.
- (3) Cash conversion of foodgrain concession.

**(f) Sixth Meeting held at Ootacamund on the 19th July, 1954.**

Draft Model Rules framed by the Government of India under the Plantations Labour Act.

**(g) Seventh Meeting held at New Delhi on the 31st Aug. and 1st Sept., 1955.**

- (1) Action taken on the decisions of the sixth session of the Industrial Committee on Plantations held at Ootacamund in July, 1954.
- (2) Bonus for plantation labour.
- (3) Progress of implementation of the Plantations Labour Act, 1951.
- (4) Extension of the Employees' Provident Funds Act to plantation industry.
- (5) Subjects coming up for consideration at the Third Session on the I. L. O. Committee on Work on Plantations (Geneva, October, 1955).
- (6) Upgrading of workers.
- (7) Refixation of wages.
- (8) Introduction of Standing Orders under the Industrial Employment (Standing Orders) Act, 1946.

## II. Industrial Committee on Coal Mining

### (a) First Meeting held at Dhanbad on the 23rd and 24th January, 1948.

- (1) Amendments to the Mines Act.
- (2) A Brief summary of the activities of the Coal Mines Labour Welfare Fund.
- (3) Training Schemes.
- (4) Resolutions adopted at the Second Session of the Coal Mines Committee of the International Labour Organisation and the action taken by the Government of India.
- (5) The Provident Fund Schemes for Coal Mines.
- (6) Stabilisation of Labour in Coal Mines, *vide* note of Ministry of Industry and Supply.
- (7) Standardisation of employment, attendance, output and pay roll registers in coal mines.
- (8) Attendance and Production Bonus.
- (9) Improvement of statistics of labour and production in coal mines.
- (10) A note on abolition of contract system of coal raising at railway collieries.

### (b) Second Meeting held at Dhanbad on the 13th and 14th September, 1948.

- (1) Action taken on the report of the First Session of the Committee.
- (2) Labour-Management relations in coal mines.
- (3) Contract labour in coal mines.
- (4) Statutory provision for working of collieries on Sundays preceding/succeeding the declared public holidays at normal rates.
- (5) Question of continuing the concessionary issue of cloth and foodgrains to colliery labour in the context of the present abnormal prices.
- (6) Load and lift rates payable to colliery labour in accordance with the recommendation of the Conciliation Board.
- (7) Supply of footwear at concessional rates to colliery workers.
- (8) Coal Mines Provident Fund Scheme (General Review).
- (9) Retrenchment of labour, closing down of mines and problem of surplus labour.

### (c) Third Meeting held at Dhanbad on the 28th and 29th March, 1951.

- (1) Action taken on the decisions of the previous meetings.
- (2) The activities of the Coal Mines Welfare Fund for the year 1949-50.
- (3) Review of the work of Provident Fund and Bonus Schemes.
- (4) Problem of surplus labour in coal mines including retrenchment.
- (5) Different measures for improving production including piece rate work and production bonus.
- (6) Footwear for coalminers.
- (7) Foodgrain and cloth concessions.

### (d) Fourth Meeting held at New Delhi on the 21st April, 1952.

Report of the Working Party for the Coal Industry with special reference to the following:—(i) Linking of minimum wages, bonus and foodgrains and other concessions with a unit of production and introduction of piece-rates wherever possible; (ii) Housing; (iii) Mechanisation; (iv) Labour Relations; (v) Abolition of contract system of labour; (vi) Adequate supply of tubs and wagons; (vii) National Coal Board and Welfare Board.

### (e) Fifth Meeting held at New Delhi on the 7th, 8th & 9th August, 1956.

- (1) Water supply.
- (2) Amendment of Mines Act.
- (3) Amendment of Coal Mines Bonus Scheme.
- (4) Revised Code of Draft Regulations under the Mines Act.
- (5) Recommendations of the Court of Inquiry on which decision is pending and the advice of the Committee is necessary.
- (6) Prohibiting women from working in open-cast mines.
- (7) Abolition of contract labour.
- (8) Model Standing Orders for Coal Mining Industry.
- (9) Extension of the provisions of the Award of the All-India Industrial Tribunal (Colliery Disputes) to the workers employed in coke plants.

- (10) Formation of a pool of retrenched workers in collieries to enable division of labour force retrenched from one place to any other place where it may be required.
- (11) Welfare facilities under the Mines Act and Rules.

### III. Industrial Committee on Cotton Textiles.

**First Meeting held at New Delhi on the 12th, 13th and 14th January, 1948.**

- (1) Standardisation of wages and rationalisation of dearness allowance structure.
- (2) Measures for increasing production.
- (3) Training of workers with a view to increasing their efficiency.
- (4) Provision for old-age institution of Provident Fund and Insurance Schemes.
- (5) Resolution passed at the First Session of the Textile Committee of the I.L.O. held at Brussels in November 1946 and the action taken by the Government of India.

### IV. Industrial Committee on Cement.

**(a) First Meeting held at Ranchi on the 10th and 11th September, 1948.**

- (1) Constitution of the Committee.
- (2) Standardisation of wages and conditions of work in the cement industry.
- (3) Promotion of harmonious industrial relations.
- (4) Measures for increasing production.

**(b) Second Meeting held at Hyderabad on the 24th and 25th March, 1954.**

- (1) Review of the action taken on the suggestions made at the first session.
- (2) Problems of standardisation of wages.
- (3) Conditions of work in the cement industry.
- (4) Abolition of contract labour.
- (5) Question of having a tripartite agreement in the cement industry.

### V. Industrial Committee on Tanneries and Leather Goods Manufactories.

**First Meeting held at Lucknow on the 10th and 11th December, 1948.**

- (1) Constitution of the Industrial Committee on Tanneries and Leather Goods Manufactories.
- (2) Wage Fixation in the industry.
- (3) Regulation of conditions of labour.
- (4) Means to prevent stoppages of work and consideration of means for increasing productions.

## JOINT CONSULTATIVE BOARD OF INDUSTRY AND LABOUR

The Government of India by Resolution No. 1(4)-1(147) dated the 1st December 1950, established a Development Committee on Industries in order to assist the Government to secure full production from the existing industries.

The Committee at its third meeting held at Delhi on the 23rd May 1951, set up a Joint Consultative Board of Industry and Labour consisting of three representatives each of employers' and workers' organisations and the Joint Board would be a permanent body to deal with all questions relating to rationalisation, retrenchment and other matters falling within the scope of industrial relations.

**1. First Meeting held at Bombay on the 18th and 19th July, 1951.**

- (1) Procedure of work;
- (2) Payment by Results;
- (3) Productivity Studies;
- (4) Retaining of retrenched workers;
- (5) Association of workers with management.

**2. Second Meeting held at Bombay on the 3rd August, 1951.**

- (1) Board to be non-official and bi-partite;
- (2) Labour Relations Bill;

- (3) Secretariat;
- (4) Circulars to the employers' and workers' organisations dealing with (a) the constitution of the Board and the organisational measures necessary; (b) Rationalisation and (c) Works Committee;
- (5) Bonus.

### **3. Third Meeting held at New Delhi on the 29th September, 1951.**

- (1) Agreements or Decisions taken by the Board;
- (2) Secretariat;
- (3) Norms for Bonus.

### **4. Fourth Meeting held at New Delhi on the 7th June, 1952.**

- (1) Norms for Bonus;
- (2) The Chapter on Labour and Industrial Relations for the Final Report of the Planning Commission.

### **5. Fifth Meeting held at New Delhi on the 4th and 5th February, 1954.**

- (1) Proposed amendment of section 33 of the Industrial Disputes Act, 1947 and the corresponding sections of the Appellate Tribunal Act;
- (2) I. L. O. Productivity Projects;
- (3) Matters in respect of which norms and standards should be formulated;
- (4) Organisation and functioning of the Joint Consultative Board.

It was decided that the Board should be reconstituted as a non-official bi-partite Board functioning on a voluntary basis to be presided over by an independent Chairman. The Board would endeavour to create conditions for the avoidance of disputes and to facilitate the settlement of the disputes on a fair and rational basis and would take steps to help in the growth of bi-partite machinery at all levels.

### **1. First Meeting of the Re-constituted Board held at New Delhi on the 16th and 17th July, 1954.**

- (1) Section 33 of the Industrial Disputes Act and Section 22 of the Industrial Disputes (Appellate Tribunal) Act.
- (2) Appellate Tribunal.
- (3) Settlement of Norms and Standards in terms of employment.

### **2. Second Meeting held at Bombay on the 3rd November, 1954.**

- (1) Scope and functions of Joint Consultative Board of Industry and Labour;
- (2) Review of the developments in the employer-employee relations.
- (3) Norms and standards for remuneration of labour;
- (4) Offer from the Research Programmes Committee of the Planning Commission for help in conducting research in relation to labour problems.
- (5) Administrative and Secretariat set up of the Board.
- (6) A general Unemployment Insurance Scheme for payment of compensation to the workers in the event of closure of a unit (Note from the President of All-India Manufacturers' Organisation).

### **3. Third Meeting held at New Delhi on the 15th and 16th March, 1955.**

- (1) Commonwealth Conference on Efficient Production;
- (2) Associations of Technicians and Managers in the work of the Board.
- (3) Secretariat of the Board;
- (4) Publication of the proceedings of the Board;
- (5) Labour Relations under the Second Five Year Plan;
- (6) Draft Bill amending the Industrial Disputes Act.

### **4. Fourth Meeting held at New Delhi on the 16th September, 1955.**

Chapter on Labour Policy for the Second Five Year Plan.

### **5. Fifth Meeting held at New Delhi on the 30th December, 1955.**

Indian Delegation to the Duke of Edinburgh's Study Conference at Oxford in July, 1956.

**6. Sixth Meeting held at New Delhi on the 3rd April, 1956.**

- (1) Setting up of organisations similar to J. C. B. in (i) Cotton Textiles; (ii) Sugar; (iii) Cement; (iv) Plantation; (v) Steel;
- (2) Question of expanding the J. C. B. by inclusion of other employers' and workers' organisations with reference to letter of the 'All-India Manufacturers' Organisation;
- (3) Publication of pamphlets about functions of the employers and workers;
- (4) Discipline and efficiency of workers and 'go slow' tactics;
- (5) Production of a documentary depicting the ways and means of securing peace and harmony.

**7. Seventh Meeting held at Bombay on the 6th September, 1956.**

- (1) Proposal of Labour Ministry for establishment of a Wage Board according to Labour Policy in the Second Five-Year Plan and setting up of an Unofficial Study Group by the Planning Commission;
- (2) Resolution of I N T U C. at its Surat Session;
- (3) Workers participation in management;
- (4) Consideration of draft pamphlets;
- (5) Report of the Duke of Edinburgh's Study Conference recently held at Oxford;
- (6) Desirability of setting up organisations similar to J. C. B. on industrial and State level.

**RAILWAY PERMANENT NEGOTIATING MACHINERY**

The Railway Board decided that a permanent machinery should be set up for maintaining contact with labour resolving disputes and differences which may arise between them and the Administration with effect from 1st January, 1952.

The machinery is envisaged in 3 tiers; one at the railway level, the recognized Unions having access to district/divisional officers and subsequently to officers at the headquarters including the General Manager; at the next tier, matters not settled at railway level will be taken up by the respective Federations with the Railway Board; and at the third tier, in cases in which agreement is not reached between the Federation and the Railway Board, and the matters are of sufficient importance, reference will be made to an *ad hoc* Railway Tribunal composed of representatives of the Railway Administration and labour presided over by a neutral Chairman.

The following detailed procedure is laid down for the working of the machinery referred to above:—

(i) At the district or divisional level, the District or Divisional Officers should meet the branches of the recognised Unions which may be established in the districts or divisions at least once in two months and oftener if necessary. Each workshop will be considered as a district. The particular branches which should meet the District or Divisional Officers as prescribed above should be agreed upon between the General Manager and the Union. The detailed procedure of arranging these meetings should be agreed upon with the Union, but this should include a provision that the branch should supply in sufficient time before the meeting the subjects which it proposes to raise at the meeting with memoranda setting out its point of view. This would enable the District or Divisional Officer to examine the questions and be prepared to take part in a useful discussion.

(ii) At the Railway Headquarters, the General Manager or the Assistant Deputy General Manager in charge of staff will meet the Unions at least once a quarter and oftener if necessary.

(iii) All disciplinary matters and subjects like promotion, transfer, etc., of individual members of the staff which do not involve any general principle will be excluded from the scope of the discussions at all these levels, except at the discretion of the Officer concerned. Where, however, Unions have been given certain privileges in these matters, these will not ordinarily be curtailed. If, in an integrated unit, there is disparity between the existing privileges in this matter and agreement cannot be reached with the Union on a uniform application of some procedure, the matter should be referred to the Railway Board for further instructions. Pending the receipt of these instructions, the general rule set out above should be followed.

(iv) At the district and railway levels, subjects will comprise those which are within the powers of the officers concerned.

(v) Questions concerning pay scales, allowances, etc., will only be discussed between the Federations and the Railway Board and not at lower levels.

(vi) At the Centre, negotiations will be between the Railway Board and the two Federations and for this purpose, there will be quarterly meetings between the Railway Board and the Federations.

(vii) When a matter which is raised for discussion at the district level is not settled by agreement, it may be raised at the Railway level for further negotiation. Similarly, a matter not settled at the railway level may be brought up by the Federations to the Railway Board for discussion.

(viii) All subjects brought up for discussion at the various levels should be disposed of as expeditiously as possible.

(ix) If, after discussions between the Railway Board and the Federations, agreement is not reached between the two sides on any matters of importance, such matters may be referred to an *ad hoc* Railway Tribunal which will be set up for dealing with them at the Centre. This Tribunal will consist of an equal number of representatives of railway labour and the Railway Administration with a neutral Chairman. The Tribunal will be enabled to make such investigations as they deem necessary before they give their decision. The detailed procedure which the Tribunal should adopt for conducting its proceedings and submitting its decisions has not yet been drawn up; this will appropriately be dealt with when the Tribunal is set up for the first time.

(x) It would be open to Government to accept, reject or modify the decision of the Tribunal and where the matters in dispute affect the workers under Ministries other than the Railway Ministry, those Ministries will be consulted as to—

(a) whether they have any objection to the disputes being referred to the Railway Tribunal; or (b) whether they would like the dispute to be referred to an *ad hoc* Commission on which they will also be represented.

(xi) On matters which have been settled by agreement or in which Government ultimately accept the decision of the Tribunal, it will not be open to the Federations to raise the same issues again for a period of two years. In those cases in which Government have rejected or modified the decision of the Tribunal, the issue may be raised at the end of one year.

## COLLECTIVE AGREEMENTS<sup>1</sup>

### AGREEMENT BETWEEN THE AHMEDABAD MILLOWNERS' ASSOCIATION AND AHMEDABAD TEXTILE LABOUR ASSOCIATION\*

WHEREAS the Ahmedabad Millowners' Association, Ahmedabad, representing its local member mills and the Textile Labour Association, Ahmedabad, a Representative Union under the Bombay Industrial Relations Act, 1946, for the local area of Ahmedabad have decided that all future industrial disputes between the local member mills of the Ahmedabad Millowners' Association and the Textile Labour Association should be settled without going to the Court by mutual negotiations and in case no settlement is possible by mutual negotiations, then by arbitration.

Now, therefore, it is hereby agreed between the Ahmedabad Millowners' Association, Ahmedabad and the Textile Labour Association, Ahmedabad, as under:—

1. That all disputes connected with an Industrial matter as defined in Section 3(18) of the Bombay Industrial Relations Act, 1946 that may arise in future between the local

<sup>1</sup> I. L. O. Recommendations No. 91 and 92 regarding Collective Agreements and Voluntary Conciliation and Arbitration was adopted in 1951. But since 1920, in India in Ahmedabad cotton mill industry, a novel technique of labour-management relations by means of mutual negotiation and voluntary arbitration, was initiated at the instance of Mahatma Gandhi. A Collective Agreement was subsequently executed in July 1952 for settlement of all disputes by voluntary arbitration, which was renewed in July 1955 when a new Bonus Agreement was also executed.

The above Collective Agreement and Bonus Agreement along with some other important Collective Agreements have been reproduced with the permission of the authorities concerned. Tata Supplemental Agreement of August 1956 is an outstanding agreement as it embodies, for the first time in India, closer association of employees with management. It may be noted here that Bata Collective Agreement was first executed in November, 1948 which was subsequently renewed in July, 1951 and February 1955.

This Agreement has been registered as Submission under Section 66(1) of the Bombay Industrial Relations Act, 1946.

member mills of the Ahmedabad Millowners' Association and the Textile Labour Association and between the Ahmedabad Millowners' Association and the Textile Labour Association, which are not settled by mutual negotiations, shall be referred for arbitration to a Board of Arbitration to be set up for the purpose as provided hereinafter.

2A. That two Panels of Arbitrators shall be constituted, one by each Association, consisting of such number of persons as may be nominated from time to time by each of the two Associations.

2B. That a Panel of Umpires shall be constituted consisting of not more than five and not less than two independent persons to be jointly nominated by both the Associations. In case the Panel of Umpires does not start functioning at the end of a period of three months from the date of this Submission, this Submission will not be inoperative on that ground and the Submission will continue to be operative unless any of the parties decides to revoke it by a proper notice as provided in clause 15 of this Submission, after the completion of period of three months as specified in this clause.

3. That whenever an industrial dispute is to be referred by any party for arbitration under the terms of this Submission, each party to the dispute shall nominate its Arbitrator from its own Panel of Arbitrators referred to in Clause 2A above and the two Arbitrators thus nominated shall form a Bench which shall be termed the Board of Arbitration. The Board of Arbitration thus formed, before starting the arbitration proceedings, shall select an Umpire out of the Panel of the Umpires constituted under Clause 2B above, but in case the Panel of Umpires is not formed or is not functioning, for any reason, shall appoint any other person as Umpire to whom, in case of difference of opinion between the two Arbitrators, it shall refer their individual decisions in writing for giving his Award.

4. That the Board of Arbitration may appoint, if deemed necessary, one or more Assessors to assist it.

5. That the Board of Arbitration shall hold its proceedings on such day and at such time as would be convenient to it and to the parties and shall decide the dispute or disputes referred to it, after such enquiry as it may deem necessary. The Board may ask the parties to submit written statements and may also require them to give evidence oral or otherwise and may further require them to produce before it any documents pertaining to the dispute.

6. That a dispute regarding Bonus shall not be entertained under this Submission but shall be settled as per terms and conditions provided in the Agreement regarding Bonus.

7. That neither the Board of Arbitration nor the Umpire shall enunciate or decide issues other than those specifically referred to it or him, as the case may be, for arbitration.

8. That no party shall be represented in any arbitration proceedings by a professional legal practitioner, but the parties may be assisted by their own technical staff during such proceedings.

9. That every dispute submitted to the Board of Arbitration shall be decided as expeditiously as possible, but in no case, a dispute shall remain undecided by the Board of Arbitration for more than six weeks calculated from the date of registration of the Submission of the dispute to the Board, unless the parties extend the period by mutual consent.

10. That the Award of the Board of Arbitration shall be in writing and shall be final and binding on both the parties. In case there would be no agreed Award of the Board, the matter shall be referred to the Umpire as provided in Clause 3 hereinbefore and the decision of the Umpire shall be in writing and shall be final and binding on the parties to the dispute.

11. That the Umpire, before giving his Award, may, if he deems necessary, require the parties to submit written statements or hear the parties in person for clarification of any points pertaining to the dispute, but it shall not be open to the parties to submit any new evidence to the Umpire.

12. That the Award of the Board of Arbitration and of the Umpire shall be registered under the provisions of the Bombay Industrial Relations Act, 1946 to make it binding on the parties.

13. That the arbitration proceedings shall generally be held at the office of the Ahmedabad Millowners' Association, but in special cases or for the convenience of the Arbitrators or the Umpire, they may be held at any other place in the city of Ahmedabad, as may be decided by the Arbitrators or by the Umpire.

Provided that if desired by the Umpire, the proceedings may also be held outside Ahmedabad.



14. That after the registration of this Submission, neither the Ahmedabad Millowners' Association nor any of its local member mills nor the Textile Labour Association shall take recourse to any legal proceedings in any Court under the Bombay Industrial Relations Act, 1946, in any industrial matter, unless the Board of Arbitration considers that in view of any provisions of the Bombay Industrial Relations Act, 1946, it is not competent to it to decide the dispute in which case, the parties may proceed under the provisions of law.

15. That this Submission shall be in force up to the 31st December 1957 but it may be revoked earlier by either the Ahmedabad Millowners' Association or the Textile Labour Association by giving six months' notice.  
Ahmedabad, dated the 27th June 1955.

For The Ahmedabad Millowners' Association, Ahmedabad.

Sd./- MADANMOHAN MANGALDAS, President.

For The Textile Labour Association, Ahmedabad.

Sd./- S. R. VASAVADA, General Secretary.

### **BONUS AGREEMENT BETWEEN AHMEDABAD TEXTILE LABOUR ASSOCIATION AND AHMEDABAD MILLOWNERS' ASSOCIATION**

WHEREAS the Textile Labour Association, Ahmedabad, a Representative Union for the local area of Ahmedabad under the Bombay Industrial Relations Act, 1946, has given a notice in Form "L" dated the 24th June 1955 to the Ahmedabad Millowners' Association, Ahmedabad, representing its local member mills, desiring a change that certain definite principles, procedure and method should be decided by both the Associations for adoption in future for a period of five years from 1953 to 1957, both inclusive, for grant of Bonus to the employees of the Cotton Textile Mills of Ahmedabad which are members of the Ahmedabad Millowners' Association AND

WHEREAS the Ahmedabad Millowners' Association and the Textile Labour Association, without renouncing the general principles enunciated in decisions and Awards of the Arbitration Boards, the Industrial Court, the Labour Appellate Tribunal and the Supreme Court in respect of Bonus or the rights and privileges created thereunder but only with a view to creating goodwill among workers and for the purpose of maintaining peace in the Industry, have decided to arrive at a mutual arrangement in the matter of the demand of the Textile Labour Association as contained in its aforesaid notice in Form "L",

Now, therefore, it is agreed between the Ahmedabad Millowners' Association, on behalf of its local member mills, and the Textile Labour Association, a representative union, as under:—

1. That this Agreement shall apply to Bonus claims in respect of years 1953, 1954, 1955, 1956 and 1957 in case of each individual member mill. Such claims shall be considered on basis of the result of working of the concern during the year as disclosed in the published balance-sheet and profit and loss a/c for the year (1) ending 31-12-1953, 31-12-1954, 31-12-1955, 31-12-1956 and 31-12-1957 in case of mills whose accounting year begins on 1st January, (2) ending 31-3-1954, 31-3-1955, 31-3-1956, 31-3-1957 and 31-3-1958 in case of mills whose accounting year begins on 1st April, (3) ending 30-6-1953, 30-6-1954, 30-6-1955, 30-6-1956 and 30-6-1957 in case of mills whose accounting year begins on 1st July and (4) ending 30-9-1953, 30-9-1954, 30-9-1955, 30-9-1956 and 30-9-1957 in case of mills whose accounting year begins on 1st October.

This Agreement shall remain in force for a period of five years and shall apply to Bonus claims in respect of the five years, viz. years 1953, 1954, 1955, 1956 and 1957 and notwithstanding both the parties to this Agreement getting their right for termination of the Agreement after a period of one year under provision of Section 116(3) of the Bombay Industrial Relations Act, 1946, both the parties agree that they will not exercise their right of termination of this Agreement, since, as this agreement makes provision of "set-off" and "set-on" for a period of five years, it is necessary that it should remain operative for that period.

2. That the claim of the employees for Bonus would only arise if there should be available surplus of profit after making provision for all the prior charges including a fair return on paid-up capital and on reserves employed as working capital as per the Formula laid down by the Labour Appellate Tribunal in its Full Bench decision\* in

\* See 1952 L.A.C. 433=1950 L.L.J. 1247.

Appeals Nos. 1 and 5 of 1950 (Millowners' Association, Bombay vs. the Rashtriya Mill Mazdoor Sangh, Bombay), i.e.,

(a) Prior charges, viz., (i) Statutory Depreciation and the Development Rebate; (ii) Taxes; (iii) Reserve for Rehabilitation, Replacement and Modernisation of Block as calculated by the Industrial Court (Basic year 1947), and

(b) A Fair Return (i) at 6% on paid-up capital in cash or otherwise including Bonus Shares; (ii) at 2% on Reserves employed as Working Capital.

(1) For the purpose of this Formula, the amount of the total gross profits of the mill for the year shall be the amount of profits as disclosed in published Balance-Sheet of the Company, without making provision for depreciation and for Bonus but after deducting from it, the amount of extraneous income (like interests from investments, rent from property) which is unrelated to the efforts of the workers.

(2) If in any year, the amount of Statutory Depreciation and Development Rebate will be higher than the amount of Reserve for Rehabilitation, the full amount of Statutory Depreciation and Development Rebate shall be adopted as a prior charge and no extra provision shall be made for Rehabilitation in that year.

3. That a mill which has an available surplus of profits after providing all prior charges, etc., on basis of the Full Bench Formula, as described above in clause 2 of this Agreement, shall pay to its employees bonus out of the available surplus, which bonus in no case shall be less than an amount equivalent to 4.8% of basic wages earned during the year or shall exceed an amount equivalent to 25% of the total basic wages earned during the year.

(i) Provided that if in respect of a particular year, a mill has an available surplus of profit as determined according to the Full Bench Formula, as described hereinbefore in clause 2, which is adequate for granting Bonus at a higher quantum than the ceiling of 25% of basic wages earned during the year as fixed above and it pays the maximum Bonus viz. 25% of basic wages earned during the year under the provisions of this Agreement, such mill will be deemed to have set aside a part of the residue of available profits after grant of maximum Bonus (i.e. 25% of basic wages earned during the year), not exceeding an amount equivalent to 25% of the basic wages earned during the year as a 'reserve' for Bonus for purpose of 'set-on' (adjustment) in subsequent years, provided, however, that the aggregate amount of available surplus thus deemed to have been set aside for purpose of 'set-on' (adjustment) shall not at any time exceed an amount equivalent to 25% of basic wages earned during the year.

The amount of available surplus of profits thus deemed to have been set aside for purpose of 'set-on' (adjustment) will be utilised for making up the deficit, if in any subsequent year the available surplus of profit of a mill calculated according to the Full Bench Formula described hereinbefore in clause 2, will not be adequate to pay Bonus as provided under this Agreement.

The setting aside of a part of available surplus of profit provided under this clause is only for notional calculation for purpose of bonus and has nothing to do with the actual appropriations and allocations made in the Balance-Sheet of the Company.

(ii) Provided further that in case of a mill whose available surplus of profit in a particular year, as calculated under the Full Bench Formula is adequate to grant Bonus at a rate lower than the ceiling (i.e. 25% of basic wages earned during the year) fixed under the Agreement, the quantum of Bonus will be fixed in such a manner that there will remain with the mill, at least a minimum amount of Rs. 10,000/- after providing all prior charges including taxes and after grant of Bonus to the employees. The amount, as indicated hereinbefore set aside and left with the mill under the provisions of this clause shall not be required to be utilised for 'set-on' (adjustment) purpose i.e. for distribution of Bonus in any subsequent year or for making up deficit in the maximum Bonus (i.e. 25% of basic wages earned during the year) in any such year.

(iii) Provided further that if in respect of any year, a mill has available surplus of profits which is adequate to pay bonus at a rate lower than the minimum rate (i.e. 4.8% of basic wages earned during the year) fixed under this Agreement and it is required to pay bonus at the minimum rate (i.e. 4.8% of basic wages earned during the year) under the provision of this Agreement, it shall be entitled to set-off the excess amount thus paid by it to make up the minimum bonus (i.e. 4.8% of the basic wages earned during the year) against the amount of bonus that would be payable in a subsequent year or years in the manner following:

1. If in the subsequent year, the available surplus of profits of this mill as calculated under the Full Bench Formula as described hereinbefore in clause 2 is adequate to grant bonus at the maximum rate of 25% of basic wages earned during the year,

the mill will first take out of the amount thus payable as bonus, the excess amount paid by it as bonus in the previous year to make up the minimum bonus (i.e. 4.8% of basic wages earned during the year) and will then distribute the remaining amount (25% of basic wages earned during the year less the excess amount) as bonus.

2. If in the subsequent year, the available surplus of profits of this mill as calculated under the Full Bench Formula described hereinbefore in Clause 2 is adequate to grant bonus at a rate lower than the maximum rate (i.e. 25% of basic wages earned during the year), the mill (a) will first set aside out of the available surplus after providing all prior charges including taxes at least an amount of Rs. 10,000/- and (b) then out of the balance of available surplus of profits, it will further take out the excess amount paid by it as bonus in previous year to make up the minimum bonus (i.e. 4.8% of basic wages earned during the year) and (c) then it will distribute the remaining amount of available surplus of profit as bonus.

The provision for setting aside at least a minimum amount of Rs. 10,000/- out of the available surplus of profits for the year by mills whose available surplus of profit calculated according to the Full Bench Formula described hereinbefore in clause 2 is adequate to pay bonus at a quantum lower than the maximum (i.e. 25% of basic wages earned during the year) fixed under this Agreement, is made on *ad hoc* basis and the actual apportionment of the available surplus of profits between the mill and its employees will be decided on merits of the case of each individual mill on the principle laid down by the Labour Appellate Tribunal that there is no justification for granting the entire surplus profits as bonus.

4. That (i) a mill whose profit is not adequate to provide for all prior charges, etc., as per the Full Bench Formula, as described in clause 2, or (ii) a mill which has made loss, though totally exempt from liability to pay Bonus under the general principles governing Bonus enunciated by the Labour Appellate Tribunal in its Full Bench decision in appeals Nos. 1 and 5 of 1950 (Millowners' Association, Bombay *vs.* The Rashtriya Mill Mazdoor Sangh, Bombay) and the decision of the Supreme Court in Civil Appeal No. 135 of 1951 (Muir Mills Ltd., Kanpur *vs.* Suti Mill Mazdoor Union, Kanpur and the State of U. P.), will, as a special case, for creating goodwill among its workers and for continuing peace in the industry but without creating a precedent, pay to its employees a minimum bonus equivalent to 4.8% of the basic wages earned by them during the year.

Provided that such mill shall be entitled to 'set-off' (adjust the amount thus paid by it as minimum Bonus (i.e. 4.8% of basic wages earned during the year) against the amount of bonus that would be payable in the subsequent year or years under the provisions of this Agreement in the manner following.

The mill will first deduct from the amount of bonus that would be payable in the subsequent year under the terms of the Agreement, the amount of minimum Bonus (i.e. 4.8% of basic wages earned during the year) paid by it in previous years and then out of the residue of the surplus profits thus arrived at, it will pay bonus under the provisions of this Agreement.

5. That for the proper and correct application of the principle of 'set-off' (adjustment) and 'set-on' (adjustment) adopted for the purpose of grant of minimum and maximum bonus in this agreement, a set of illustrations is given hereunder for guidance. (a) The term "Full Bench Formula" used in the following illustrations refers to the "Full Bench Formula" described in clause 2 of this Agreement. (b) It is understood that except in respect of the minimum rate, all figures of percentages in the following illustrations are rounded off for facility of calculation but in case of calculations of quantum of bonus of individual mills the actual percentages will be applied. (c) It is further understood that the expressions "reserve for bonus", "set aside as reserve for bonus" and the like used in the following illustrations do not in any way signify that there will be any actual appropriation of balance-sheet profit under this head. The expressions are used solely for the purpose of explaining the principle of 'set-on' (adjustment) and signify only a notional carry forward. (d) In the following illustrations, the amount for purpose of 'set-off' (adjustment) is shown in form of a certain percentage of basic wages earned during the year. In practice, however, the amount of minimum bonus (i.e. 4.8% of basic wages earned during the year) that will be determined to be payable from actual calculations under the provisions of this Agreement, will be permitted to be 'set-off' (adjusted) by the mill in the subsequent year.

#### ILLUSTRATION I.

In 1953, Mill "A" has a surplus of profit as calculated according to the Full Bench Formula, which is adequate to grant Bonus equivalent to 83% of basic wages earned

during the year. This mill will pay maximum Bonus equivalent to 25% of the basic wages earned during the year under the Agreement and will further be deemed to have set aside a maximum amount equivalent to 25% of the basic wages earned during the year for purpose of 'set-on' (adjustment) in subsequent years.

In 1954, this Mill has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 8% of basic wages earned during the year. This mill will, first, set aside out of the available surplus of profit after providing all prior charges including taxes, at least a minimum amount of Rs. 10,000/- and then to the residue, it will add, out of the amount deemed to have been set aside as "reserve for Bonus" in the previous year, an amount adequate to make up the total amount equivalent to 25% of basic wages earned during the year (8%—Minimum amount set aside+adequate amount out of amount deemed to have been set aside in previous year for 'set-on' (adjustment)=25% of basic wages earned during the year) and the total amount thus arrived at will be paid as Bonus.

In 1955, this Mill has no available surplus of profit calculated according to the Full Bench Formula for grant of Bonus (or has made a loss) and will, therefore, be required to grant minimum Bonus equivalent to 4.8% of the basic wages earned during the year under the Agreement. But as it has with it a part of the amount (equivalent to 25% of basic wages earned during the year) deemed to have been set aside as "reserve" for Bonus in year 1953, it will pay Bonus out of such residue of Bonus 'Reserve' but not below the minimum (i.e. 4.8% of basic wages earned during the year).

In 1956, this Mill makes loss (or has no available surplus of profit according to the Full Bench Formula). It will, therefore, pay minimum Bonus equivalent to 4.8% of basic wages earned during the year under the Agreement. The mill will be entitled to 'set-off' (adjust) such amount of minimum Bonus (i.e. 4.8% of basic wages earned during the year) against the amount of Bonus that may be payable in subsequent years.

In 1957, this mill makes loss (or has no available surplus of profit according to the Full Bench Formula). It will pay the minimum Bonus equivalent to 4.8% of basic wages earned during the year under the provisions of the Agreement. The Mill will be entitled to 'set-off' (adjust) this amount against the amount of Bonus that may be payable in subsequent years. The Mill, however, will not be able to reimburse itself for this amount together with the amount distributed in year 1956, out of the amount of Bonus that may be payable in the next year i.e. 1958 as the agreement will not be operative in respect of Bonus for that year.

#### ILLUSTRATION II

In 1953, Mill 'B' has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 37.5% of the basic wages earned during the year. Under the Agreement, however, it will pay Bonus at the maximum rate viz. 25% of the basic wages earned during the year and will further be deemed to have set aside an amount equivalent to 12.5% of basic wages earned during the year as "reserve" for Bonus for purpose of 'set-on' (adjustment) in subsequent years.

In 1954, this Mill has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 8% of basic wages earned during the year. This Mill will first set aside, out of available surplus of profit after providing all prior charges including taxes, at least a minimum amount of Rs. 10,000/- and then to the residue, it will add the amount of "reserve" for Bonus deemed to have been set aside in year 1953 and the total amount thus arrived at (viz. 8%—the minimum amount set aside+12.5%) will be paid as Bonus.

In 1955, this Mill has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 50% of basic wages earned during the year. Under the Agreement, this mill will grant maximum Bonus equivalent to 25% of the basic wages earned during the year and will be deemed to have set aside out of the residue, an amount equivalent to 25% of basic wages earned during the year as "reserve" for Bonus for purpose of 'set-on' (adjustment) in subsequent years.

In 1956, this Mill has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 83% of basic wages earned during the year. Under the provisions of the Agreement, this mill pays maximum Bonus equivalent to 25% of basic wages earned during the year. However, it will not be deemed to have set aside any part of the surplus profit as "reserve" for Bonus for purpose of 'set-on' (adjustment) in future years, as it is deemed to have set aside in the

previous year for purpose of 'set-on' (adjustment) an amount equivalent to 25% of basic wages earned during the year.

In 1957, this Mill makes loss (or has no available surplus for grant of Bonus according to the Full Bench Formula) and will, therefore, be required to grant minimum Bonus equivalent to 4.8% of basic wages earned during the year. However, it is deemed to have set aside during a previous year an amount equivalent to 25% of basic wages earned during the year as 'reserve' for Bonus for purpose of 'set-on' (adjustment). Hence it will be deemed to draw upon this 'reserve' and grant Bonus at the maximum rate of 25% of basic wages earned during the year.

#### ILLUSTRATION III.

In 1953, Mill 'C' has no available surplus of profit for Bonus, calculated according to the Full Bench Formula. It pays minimum Bonus equivalent to 4.8% of the basic wages earned during the year.

In 1954, this Mill has a surplus of available profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 42% of basic wages earned during the year. Under the Agreement, this Mill will (i) be required to pay Bonus at the maximum rate, i.e. 25% of the basic wages earned during the year, and (ii) be deemed to set aside for purpose of 'set-on' (adjustment) an amount equivalent to 17% of basic wages earned during the year out of the residue of surplus profits. However, as it has paid minimum Bonus (i.e. 4.8% of basic wages earned during the year) in respect of previous year, it will be entitled to deduct such amount from the amount of maximum Bonus (i.e. 25% of basic wages earned during the year) that will be payable under the Agreement in respect of the current year and then will distribute the balance  $(25\% - 4.8\% = 20.2\%$  of basic wages earned during the year) as Bonus.

In 1955, this Mill has available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 8% of basic wages earned during the year. This Mill will first set aside out of the available surplus of profits after providing all prior charges including taxes, at least a minimum amount of Rs. 10,000/-. Then to the residue, it will add the amount equivalent to 17% of basic wages earned during the year deemed to have been set aside in year 1954 for purpose of 'set-on' (adjustment) and distribute as Bonus the total amount thus arrived at  $(8\% - \text{minimum amount set aside} + 17\%)$ . The amount of Rs. 10,000/- minimum set aside out of the available surplus and left with the mills under this clause shall not be required to be utilised for the purpose of 'set-on' (adjustment) i.e. for grant of Bonus in any subsequent year.

In 1956, this Mill has no available surplus of profit calculated according to the Full Bench Formula. It pays minimum Bonus equivalent to 4.8% of basic wages earned during the year. It will be entitled to 'set-off' (adjust) the amount of such minimum Bonus (i.e. 4.8% of basic wages earned during the year) against the amount of Bonus that may be payable in the subsequent year.

In 1957, this Mill has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 8% of basic wages earned during the year. The mill, however, will (i) first deduct out of this available surplus of profits arrived at after providing all prior charges including taxes, at least a minimum amount of Rs. 10,000/-; and (ii) then out of the residue, further take out an amount equivalent to 4.8% of basic wages earned during the year paid by it as minimum Bonus in the previous year; and (iii) then utilise the balance  $(8\% - \text{minimum amount} - 4.8\%)$  for payment of Bonus.

However, if the balance of surplus profit is not adequate to pay minimum Bonus (i.e. 4.8% of basic wages earned during the year), the mill will pay minimum Bonus (i.e. 4.8% of basic wages earned during the year) and will be entitled to 'set-off' (adjust) the amount of difference between the minimum (i.e. 4.8% of basic wages earned during the year) and the balance of surplus profits  $(8\% - \text{minimum amount} - 4.8\%)$  against the amount of Bonus that may be payable in respect of subsequent year. The Mill will, however, be unable to reimburse itself for such difference as the Agreement will not be operative in respect of Bonus claim for 1958.

#### ILLUSTRATION IV:

In 1953, Mill 'D' has no available surplus of profit calculated according to the Full Bench Formula. It pays minimum Bonus equivalent to 4.8% of the basic wages earned during the year under the Agreement. This mill will be entitled to 'set-off' (adjust) the amount of such minimum Bonus (i.e. 4.8% of basic wages earned during the year) against the amount of Bonus that may be payable in subsequent years.

In 1954, this mill makes loss. It pays minimum Bonus equivalent to 4.8% of basic wages earned during the year with provision for "set-off" (adjustment).

In 1955, this Mill has no available surplus of profit calculated according to the Full Bench Formula. It pays minimum Bonus equivalent to 4.8% of the basic wages earned during the year with provision for 'set-off' (adjustment).

In 1956, this Mill has an available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 83% of basic wages earned during the year. Under the Agreement, this Mill (i) will be required to pay Bonus at the maximum rate of 25% of basic wages earned during the year, and (ii) will be deemed to set aside for purpose of 'set-on' (adjustment) an amount equivalent to 25% of basic wages earned during the year.

This mill, however, will (i) first take out of the amount of maximum Bonus equivalent to 25% of basic wages earned during the year that will be payable under the Agreement, the total amount paid by it as minimum Bonus (i.e. 4.8% of basic wages earned during the year) in the previous three years equivalent to 14.4% ( $4.8\% \times 3$ ) of the basic wages earned during the year, and (ii) then pay the residue (viz.  $25\% - 14.4\% = 10.6\%$ ) of basic wages earned during the year as Bonus.

In 1957, this Mill has available surplus of profit calculated according to the Full Bench Formula which is adequate to grant Bonus equivalent to 12.5% of basic wages earned during the year.

This Mill will (i) first set aside out of the available surplus of profits arrived at after providing all prior charges including taxes, at least a minimum amount of Rs. 10,000/-; and (ii) then add to the residue, by drawing upon the amount of surplus of profits deemed to have been set aside by it in the previous year i.e. 1956 an amount adequate to make up a total amount equivalent to 25% of the basic wages earned during the year and pay Bonus at the maximum rate (i.e. 25% of the basic wages earned during the year).

6. That the amount of "reserve" for Bonus deemed to have been set aside by a mill for the purpose of 'set-on' (adjustment) under the provisions of this Agreement which remains unutilised at the end of year 1957 (or on 31-3-1958 or on 30-6-1957 or on 30-9-1957 as the case may be) after grant of Bonus for that year, shall lapse and the employees shall have no right to such amount for satisfying their claim for Bonus at any future time after the termination of this Agreement. Similarly, the amount or amounts of minimum Bonus (i.e. 4.8% of basic wages earned during the year) paid by a mill during the period of the Agreement which it is entitled to "set off" (adjust) against the amount of Bonus that was payable during the period of five years under the provisions of this Agreement but which remains unadjusted on 31-12-1957 or on 31-3-1958 or on 30-6-1957 or on 30-9-1957, as the case may be, shall lapse on the termination of this Agreement and the mill shall not be entitled to "set off" (adjust) such amount against the amounts of Bonus that may become payable in future years.

7. That mills shall pay to their employees Bonus according to the terms and conditions provided under this Agreement in respect of each of the five years from year 1953 to year 1957, both inclusive.

Provided that the Bonus in respect of year 1953 shall be paid before the 1st November 1955 and the Bonus in respect of years 1954 to 1957, shall be paid within a period of two months of the date that will be mutually fixed by the parties for distribution of Bonus in the respective years, subject to the following conditions: (i) In the case of women employees who have been on maternity leave during the year, the maternity allowance drawn by them shall be included in their earnings for the purpose of calculating Bonus; (ii) Employees who have been dismissed on account of misconduct causing financial loss to the Company will not be entitled to Bonus to the extent of the loss caused; (iii) Persons who are eligible for Bonus but are no longer in the service of the mill shall submit their claim within one year of the declaration of Bonus and the Bonus shall be paid within one month of the receipt of the claim. Failing an application within the period specified, the right to claim the Bonus shall not survive.

8. That the Ahmedabad Millowners' Association and the Textile Labour Association will jointly determine in case of each individual member mill the available surplus of profit and fix the quantum of Bonus to be distributed in terms of the Agreement on basis of the Balance-Sheet of the year after obtaining the necessary information regarding Bonus provision, statutory depreciation etc. from the mills after the publication of Balance-Sheets. Such necessary data shall be supplied by the mills to both the Associations within a period of two months of the publication of the Balance-Sheet or before the end of the month of September of the next year whichever is later. If there will be any difference of opinion between the parties regarding determination of the available surplus of profit or the quan-

tum of Bonus to be paid by the mill, the matter will immediately be referred to the President of the Labour Appellate Tribunal of India and in case he is not available or is unable to function, to an Umpire from the Panel of Umpires formed under the provision of clause 2B of the Submission regarding Arbitration dated 27th June 1955 and in case the Panel of Umpires is not formed or is not functioning, to a person mutually agreed between the parties and his decision shall be accepted by both the parties.

Ahmedabad, dated the 27th June 1955.

For The Ahmedabad Millowners' Association, Ahmedabad.  
Sd./- H. G. ACHARYA,  
Secretary.

For The Textile Labour Association, Ahmedabad.  
Sd./- S. R. VASAVADA,  
General Secretary.

## **COLLECTIVE AGREEMENT BETWEEN BATA SHOE CO., LTD., CALCUTTA AND BATA MAZDOOR UNION, BATANAGAR<sup>1</sup>**

THIS AGREEMENT dated the Eighteenth day of February, One thousand nine hundred fifty-five, BETWEEN BATA SHOE COMPANY LIMITED having its Head Office and Registered Office at No. 30 Theatre Road in Calcutta and its Factory at Batanagar hereinafter referred to as the "Company" and THE BATA MAZDOOR UNION, Batanagar, hereinafter referred to as the "Union". THIS AGREEMENT WITNESSETH as follows:—

### **ARTICLE I—PURPOSES:**

The general purpose of this Agreement is to promote and improve industrial and economic relationship between the Company and its workmen and employees and to improve the machinery for the prompt and equitable disposition of grievances and to establish and maintain satisfactory working conditions and to set forth herein the basic agreement covering terms and conditions of employment for all workmen and employees who are subject to provisions of this Agreement.

The governing factor throughout this Agreement shall be at all times the continuing safety of the corporate undertaking and the general welfare of those dependent thereon.

### **ARTICLE II—RECOGNITION:**

(a) For the purpose of this Agreement the Company recognises the Union as the sole and exclusive Collective Bargaining Agency for the workmen and employees of the Company engaged in its factory at Batanagar, Calcutta offices and the Central Repair Shop at 1, Chandni Chawk, Calcutta, except the employees who are prohibited from becoming members of the Union or from taking part in any Union activities under the terms and conditions of employment between the Company and such employees as authorised under the Indian Trade Unions Act.

(b) None of the workmen and employees from the Departments mentioned hereunder will be withdrawn from work by the Union even if a strike is declared by the Union. If, however, in the event of a strike the Company actually starts carrying on the business of manufacture, in that event the Union will have the liberty to withdraw such staff. The following are the Departments covered under the provision:—(i) Watch and Ward; (ii) Public Health; (iii) Telephone Operators; (iv) Fire Brigade; (v) Kitchen and Store; (vi) Transport (unloading and loading of wagons reached or those which left destination before commencement of strike); (vii) Water and Electric Supply; (viii) Skeleton staff in Tannery (for the purpose of saving the hides and skins in the process of soaking, liming, etc., till brought to tanyard and/or drying chamber, as the case may be).

### **ARTICLE III—RELATIONSHIP:**

(a) The Company agrees that it will not indulge in unfair labour practices and/or will not discriminate, interfere, coerce or restrain any workman and employee because of the membership in the Union, and it will not permit non-Union workmen and employees to engage in anti-Union activities during working hours or on Company's premises.

(b) The Union agrees that neither it nor any of its officers or members will intimidate or coerce workmen and employees into membership in the Union or engage in any activity

<sup>1</sup> Under Article VII, Standing Orders and Rules of different category of workmen and employees form part of this Agreement.

or demonstration or intimidation or interfere against the non-Union workmen and employees if any and the Union further agrees that there will be no Union activity, solicitation for membership or collection of dues or meetings or demonstrations on Company time and premises, except that solicitation for membership and for collection of Union subscription will be permitted beyond the factory hours and outside the factory premises, except further that meetings other than open meetings can be held outside the factory premises.

#### ARTICLE IV—RESERVATION OF MANAGEMENT'S RIGHTS:

The Union acknowledges that it is the exclusive right and function of the Company to:—

(a) maintain order, discipline and efficiency.

(b) hire, discharge, retrench, classify, transfer, promote, demote or discipline workmen and employees provided that a claim that any one has been improperly discharged or disciplined without reasonable cause and provided that a claim that any one has been dealt with by way of victimisation can be subjects of grievance and dealt with as herein-after provided under the Complaints and Remedy and/or the Grievance Procedure, as the case may be.

(c) generally manage the industrial enterprise in which the Company is engaged and without restricting the generality of the foregoing to determine from time to time the number and location of plants, the products to be manufactured, methods of manufacture, schedules and estimate of production, kinds and allocation of machines and tools to be used, processes of manufacturing and assembling, the engineering and designing of its products and the control of materials and parts to be incorporated in the products produced and to change and alter and stop production of such articles as it may consider necessary from time to time.

#### ARTICLE V—LOCK-OUTS AND STRIKES:

The Company agrees that it will not cause or direct any lock-out as long as the workmen and employees collectively or individually do not commit any breach of this Agreement and the Union also agrees that while retaining its right to go on a legal strike, it and its members individually or collectively will not cause, permit or take part in any strike, picketing, sit-down, stay-in, slow-down or other curtailment or restriction on production or interference with work in or about the Company's premises until the procedure provided herein for the settlement of grievances had been first fully complied with.

The Company also agrees that subject as herein provided, before effecting any mass retrenchment (*viz.* 50 or over at a time and/or totally in a year) such question will be subject of negotiation between the Company and the Union and if no settlement is arrived at, the same will be referred to arbitration if mutually agreed upon, or to the Government through the Conciliation Officer for referring the matter to adjudication if the Conciliation Officer is unable to effect a settlement between the parties.

If, however, the Company effects any mass retrenchment as aforesaid ignoring the procedure abovementioned, in that event the Union will be at liberty to take such action as it may consider fit and proper.

#### ARTICLE VI—GENERAL BONUS:

The Company declares and makes a payment of General Bonus one month after the end of each quarter at the rate of 17½ per cent of the total salary and/or wages paid to each workman and employee during the quarter immediately preceding (such salary or wages are exclusive of Dearness Allowance or any other special allowances or rewards granted to him during such period). Such Bonus will be payable only to those who have completed six months' approved service ending on the last day of the quarter; and to those who have completed less than six months' approved service on the last day of the quarter, the Bonus will be payable at the rate of 8.75 per cent of their total salary or wages as aforesaid. The Bonus will be available only to those who are in the employ of the Company on the last date of the quarter and who have given regular and approved service during the quarter to which the payment of Bonus is available.

#### ARTICLE VII—CONDITIONS OF SERVICE:

Attached hereto and forming part of this Agreement is the Standing Orders and Rules incorporating the terms and conditions of service of different category of workmen and employees including the Rules governing the Licence for the use of Residential accommodation in Batanagar.



**ARTICLE VIII—PERIOD OF AGREEMENT:**

This Agreement shall be in effect until December 31st, 1957. It shall continue from year to year thereafter unless either party gives notice in writing of its intention to enter into negotiation for the purpose of amending the Agreement. Such notice may be given sometime before the expiry of the current period but the negotiation will start only after the expiry of the effective period. During the time till new agreement is arrived at this will remain in force.

If notice of intention to amend is given by either party in writing pursuant to the provision of the preceding paragraph, such negotiation shall take place not later than thirty days after the date written on the notice or the expiry of the effective period of the Agreement whichever is later, and if such negotiations do not result in agreement, the matter, by either party, will either be referred to mutually agreed arbitration or take recourse to the provisions of the Industrial Disputes Act for resolving the dispute and/or differences.

In the event of a breach or continuing breach of the terms and conditions of this Agreement on the part of one of the parties hereto, the other may refer the matter to arbitration if mutually agreed upon or take recourse to the provisions of the Industrial Disputes Act for resolving the dispute and/or differences.

It is further agreed that if any term or condition herein is altered or amended or added by mutual agreement, the same will be duly given effect to and form part of this Agreement.

IN WITNESS WHEREOF the parties have signed as hereunder:

BATA MAZDOOR UNION,  
Sd./- S. N. PAUL,  
Secretary.

BATA SHOE COMPANY, LTD.,  
Sd./- M. L. KHAITAN,  
Chairman, Board of Directors.

**STANDING ORDERS AND RULES FOR WORKMEN****1 APPLICATION:**

The Standing Orders and Rules appearing hereunder will govern the conditions of employment of workmen employed at the Factory of Bata Shoe Co., Ltd., at Batanagar, 24-Parganas.

**2 DEFINITIONS:**

In these Orders, unless there is anything repugnant in the subject or context:

(a) "Company" means the Bata Shoe Company Limited, having its Head Office and Registered Office at 30, Theatre Road, Calcutta, and Factory at Batanagar.

(b) "General Manager" includes the General Manager of the Company or such other person as may be authorised by the Company to carry out his work or part of his work from time to time.

(c) "Personnel Officer" means the Personnel Officer of the Company and includes Staff Manager and Staff Superintendent, or any other Officer authorised by the Company to carry out his work or part of his work from time to time.

(d) "Workmen" means all workmen on piece or hourly rate basis or otherwise, and all other manual or subordinate staff except the following:—(i) Casual or Temporary workmen or Apprentice (other than permanent employees who are called "Apprentice"); (ii) Supervisory and Clerical employees; (iii) Those working on six days basis or more (excluding the workmen engaged directly in Production Units in the Factory); (iv) Essential Services employees.

(e) "Medical Certificate" means a certificate signed by a Medical Officer of the Company or in the case of a workman living within the jurisdiction of B. W. S. B. S., by a doctor of that Society, or in respect of others, by an outside registered medical practitioner.

(f) "Union" means Bata Mazdoor Union registered under the Indian Trade Unions Act, 1926 and recognised by the Company.

(g) "Basic wage," "Basic pay," or "Basic salary" means wage, pay or salary not including Dearness Allowance, Bonus, Reward, Allowance, etc.

(h) "Notice Board" means the Notice Board specially maintained in a conspicuous place at or near the main gate for the purpose of displaying notices required to be pasted or affixed under the Standing Orders and Rules and would include Notice Boards main-

tained in Departments for specific use to notify the departmental workmen and/or employees.

(i) "Each or every completed year of service" means each or every year of continuous service rendered from the last date of appointment.

(j) "B. W. S. B. S." means Bata Workers' Sickness Benefit Society which is governed by separate rules made therefor.

### 3 RECRUITMENT:

(a) Appointment to the Company's service is made solely by the Personnel Department. Candidates for employment will submit applications in writing, complete the Company's form of Employment Proposal, and submit to medical examination by the Medical officers of the Company.

(b) The acceptance of employment by a candidate includes acceptance of and agreement to abide by the provisions of these Standing Orders and Rules and the Collective Agreement with the Union.

### 4 APPOINTMENT:

(a) An appointment is considered valid only when a control card has been issued duly signed by the Personnel Department.

(b) It is the responsibility of every workman to punch his control card correctly at the Gate Office on entering and, if so ordered, on leaving the factory.

(c) Should a workman lose his control card, it will be replaced on application to his Payroller at the cost of one anna. A properly punched control card is considered as one of the evidence of attendance.

(d) A workman when he ceases to be in the employ of the Company shall deposit his control card ticket with his Payroller or with the Personnel Department and this control card ticket shall cease to be effective. If he is in the occupation of any residential quarter of the Company, he shall also give vacant possession thereof to the Personnel Services Department of the Company forthwith along with furniture and fixtures, if any, given to him.

### 5 CLASSIFICATION:

Workmen are classified as follows:

- |                  |               |
|------------------|---------------|
| A. Probationers. | B. Permanent. |
|------------------|---------------|

#### A. PROBATIONERS:

(a) A newly engaged workman is for the first six months of such service classified as a Probationer. An exception will be made in case of an ex-employee re-engaged, who has 3 years or more continuous active service to his credit, in which case the period of probation will be 3 months. His control card will bear a probationary number and be distinguished by a capital 'P' stamped on the face thereof.

(b) A Probationer will be periodically subject to medical examination by the Company's Medical Officers for purpose of ascertaining his suitability for industrial employment.

(c) A Probationer may be discharged without notice or pay in lieu thereof at the discretion of the Company.

(d) A Probationer during his probationary period will receive training in the appropriate Training and Allocation Centre or in any regular Department.

(e) During the probationary period of six months, a Probationer will be paid at the weekly basic rate of wage of Rs. 11/- per week subject to full week's attendance calculated on hourly basis *plus* Dearness Allowance in force at the time except that the basic weekly rate of wage for Grade 'D' Probationers would be Rs. 10.50 per week.

(f) In the calculation of any bonus which the Company may declare, or in qualifying for leave under the Company's rules or for any other privileges for which a qualifying period of work is laid down, a workman's service with the Company shall be deemed to include the probationary period.

(g) On appointment as a probationer the workman must join Bata Workers' Sickness Benefit Society (if in existence) and he will be bound by the rules and regulations framed therefor.

**B. PERMANENT:**

(a) On completion of the probationary period, the Probationer will become a permanent workman. In place of his probationary control number, he will receive his substantive control number and will be issued with a regular control card and on being allotted to a regular department except temporarily a Service Card mentioning the starting job and basic rate of wage countersigned by the Personnel Officer.

(b) On becoming permanent if a piece-rated workman is detained in the Training and Allocation Centre by the Company, his basic rate of wage will be according to the basic trained rate of wage as laid down hereunder. He will also get a job card mentioning the operations he is trained for and the basic trained rates of wages countersigned by the Personnel Officer.

Dept. weekly basic rate of wage for the operation.	Weekly trained rate of wage.
Rs.	Rs.
27.00	18.50
25.00	
24.00	
23.00	
22.00	
20.50	16.50
20.00	
19.50	
18.50	
17.50	14.50
17.00	
16.50	14.00
16.00	

(c) A permanent workman when transferred from a regular department to the Training and Allocation Centre for any reason other than for his own negligence or inefficiency or by way of punishment or in lieu of retrenchment or becoming an extra staff or any other similar reason, will till such time as he is in the Training and Allocation Centre be treated on the basis of the trained T. & A. C. basic rate of wage or the basic rate of wage of the operation from which he was transferred whichever is higher and on a transfer for reasons mentioned above be treated on T. & A. C. rate of the operation from which he was transferred.

(d) Should a workman be not engaged fully in any one job or operation, he will be required to work in any other job or operation even in different departments in order to employ him fully. In such a case the workman will get the benefit of the higher basic rate of wage for purposes of leave and holidays.

**6. PAYMENT OF WAGES:**

Wages will be paid in accordance with the provisions of the Payment of Wages Act (Act IV of 1936). Wages are paid weekly within eight days of completion of the work for which the wages are due. The working week for the calculation of wages for piece-rated workmen is reckoned from Monday to the following Friday or Saturday as the case may be and pay days are announced on the Notice Board at the Main Gate.

**7 BASIC AND MINIMUM WAGES:**

(a) Basic rates of wages are fixed by the Company and those applying to piece-rated workmen and hourly-fixed will be as per Schedules I and II hereinafter and wherever possible will be displayed in Departments concerned.

(b) Every permanent piece-rated workman after actively working for a full working week will not be paid less than Rs. 13/-.

(c) In the event of any piece-rated workman having actively worked a full working week and not achieved his estimated production for any reason whatsoever including temporary stoppage and/or shut down except his own negligence (of which the General Manager will be the sole judge), such workman if his production is less than 75 per cent will receive 75 per cent of his basic wage for the week and if he has completed 3 years' continuous service with the Company, and his production is less than 80 per cent, he will receive 80 per cent of his basic wage for that week.

Should this 75 per cent or 80 per cent yield a figure of less than Rs. 13.00, he will nevertheless receive Rs. 13.00.

Provided, however, that if he is on paid leave or holiday, the 75 per cent or 80 per cent will be calculated on his output of work on the balance days of the week.

#### 8 DEARNESS ALLOWANCE:

(a) The basis of Dearness Allowance will be Rs. 7/- per week per head at a Living Index of 340.

(b) Dearness Allowance will be increased or decreased by Rs. -/8/- (Eight annas) per week per head for every 20 (Twenty) points of the increase or decrease of the Living Index.

(c) Dearness Allowance will be revisable higher or lower twice a year, once commencing from the wages of Week 01 (First week of January) and next from Week 27 (First week of July) of each year, based on the available Living Index of the latest month of the previous year and of the latest month of the current year respectively.

(d) Dearness Allowance is linked with attendance, and no Dearness Allowance will be payable for those days of the week if out of work unless on leave with pay.

Provided, however, that no deduction will be made from the Dearness Allowance for the week concerned, if the workman is on previously sanctioned leave without pay for not more than two days in a week of five working days.

If the week consists of four working days only, the aforesaid benefit will be limited to previously sanctioned leave without pay for one day, and for a week having less than four working days this privilege will not be applicable at all.

Provided further that such benefit will not accrue to the workman if the leave is continued in the succeeding week.

No objection for purposes of claiming Dearness Allowance if leave is not sanctioned will be entertainable.

#### 9. HOURS OF WORK AND SHIFTS:

(a) The plant will work in accordance with the provisions of the Factories Act (Act LXIII of 1948) and a Schedule of hours of work and shifts is displayed in appropriate language on the Notice Board. These shifts are subject to change from time to time at the discretion of the Company. Workmen may be transferred from one shift to another.

(b) *Night Shift Allowance:* A workman who puts in a full night shift working will be deemed to have worked on night shift and will receive 20 per cent over and above the normal calculated rates.

Workmen of the 'B' shift who will put in continually at least five hours of work extending up to and/or beyond 11 P.M. and unless otherwise debarred as in the usual night shifts, will receive 15 per cent over and above the normal calculated rates.

No workman will be ordinarily required to work on night shift for more than two weeks at a time after which he must serve two weeks on day shift before again being eligible to work in a night shift.

#### 10. ATTENDANCE:

A workman must commence work at the time fixed.

#### 11. PILFERAGE AND SEARCH:

(a) Workmen will enter and leave the Factory by the approved gate or gates. Any workman may be searched at the gate by the checker as he enters or leaves the factory.

(b) A workman is not entitled to carry with him inside the factory premises any dangerous weapon unless specially authorised in writing nor carry unauthorised explosives or chemicals or any other article dangerous to the security of the workmen and employees and to the property of the Company.

#### 12. EXTRA TIME AND OVERTIME:

(a) Extra time means time worked in excess of the normal working hours in a week as long as it does not exceed 9 hours any day except Sunday and/or 48 hours in any week and will be paid for at double the basic wages excluding Dearness Allowance for the extra period worked or for the actual production during such extra period as the case may be.

(b) Overtime means work done on any day of the week except Sunday for more than 9 hours on any day and/or for more than 48 hours in any week, and such overtime will be paid at the rate of double the ordinary rate of wages including Dearness Allowance for the overtime period worked or for the actual production during such overtime period as the case may be.

(c) Should a workman be required to work on a scheduled paid National and/or Festival holiday, he will receive holiday pay besides wages for the number of hours worked on such a holiday calculated on the basis mentioned in (a) or (b) above, as the case may be.

(d) Sunday work will be in accordance with the provisions of the Factories Act, that is to say, those working on a Sunday will receive leave in lieu but will receive no extra or double wages or Dearness Allowance or extra and/or overtime pay on this account.

### 13. LEAVE AND HOLIDAYS:

Workmen are entitled to leave as hereunder:

#### A. PRIVILEGE LEAVE (NON-CUMULATIVE):

(a) After one year's continuous active service 12 days' leave with basic pay annually. The period of such leave will be fixed by the Company in each year and is normally given sometime between April and May, although the dates may not be exactly the same for every one. The facilities of the Factories Act provisions in the matter of leave are fully available under this scheme as a whole including the provisions of sick leave and casual leave.

(b) To meet the exigencies of production and special processes and for the overhauling of plant and equipment, certain departments or workmen who will be notified at least two weeks in advance and who will be required to work during the period of the general privilege leave, will receive their privilege leave with basic pay, either before or after or in the alternative if any such workman not desiring to avail of the privilege leave, he will receive pay at the basic rate for the leave in the normal course and for the period of work will receive payment at double the basic rate or on the actual production, as the case may be.

#### B. NATIONAL AND FESTIVAL HOLIDAYS:

(a) The following thirteen National and Festival holidays are granted to workmen with basic pay:—

1. Republic Day	...	day
2. Saraswati Pujah	...	day
3. Doljatra	...	day
4. 1st Baisakh	...	day
5. Id-ul-Fitr	...	day
6. May Day	...	day
7. Independence Day		1 day
8. Mahatma Gandhi Birthday		1 day
9—12. Durgah Pujah	...	4 days
13. Christmas Day	...	1 day
Total	...	13 days

If any of the paid holidays falls on a non-working day, the next working day will not be declared as a holiday, but salary or wages for that day on the basis of the basic rate will be given to all qualified workmen.

If all the National and Festival holidays fall on working days, in that case one day in lieu will have to be worked. If only one National or Festival holiday falls on a non-working day, even then one more day will be worked in lieu; if two National and/or Festival holidays fall on non-working days then still one more day will be worked in lieu; but if three or more such holidays fall on non-working days, then no more extra day will be worked in lieu. For such working in lieu, only the normal salary or wages for the work or the day as the case may be, will be payable, that is to say, no extra or double salary or wages will be paid.

(b) Only those workmen who are present or are on sanctioned leave with pay on the working day immediately before and the working day following a National and/or Festival holiday scheduled as a paid holiday will qualify for pay for that holiday unless they are granted leave covering either or both the days in question.

**C. SICK LEAVE (NON-CUMULATIVE):**

After one year's continuous active service and upon approved medical certification 15 working days' sick leave with basic pay per year.

Workmen qualified by service for the benefit of 15 days' sick leave with pay annually who, in any calendar year, do not utilise the whole of such sick leave will, at the beginning of the following year, if still in the Company's employ, be eligible to receive payment at their basic rate of pay as on 31st December, for any unused balance of such sick leave.

This privilege will also be extended to such new workmen as, during any calendar year, become qualified to receive sick leave with pay. For the remainder of that year such workmen will be deemed to be due 1.25 days' sick leave for each completed calendar month of service or major portion thereof, and, if still in the Company's service, will, at the beginning of the following year, be eligible to receive payment on the basis aforesaid for any unused balance of sick leave standing to their credit on 31st December.

**D. CASUAL LEAVE (NON-CUMULATIVE):**

(a) After one year's continuous active service—6 days' casual leave annually on full basic pay.

(b) Casual leave may not be availed of for more than three consecutive days at a time and is not ordinarily allowed to continue with holidays or any other leave.

(c) Application for casual leave must be made in writing to the Personnel Officer through departmental heads at least one day in advance, except in emergent circumstances of which full proof must be produced.

**E. ORDINARY LEAVE:**

(a) After 12 months' continuous service, a workman is qualified for ordinary leave without pay for a total of 20 days in any one year. The granting of leave is at the discretion of the Company and permission is subject to the exigencies of production.

(b) Application for ordinary leave must be submitted in writing to the departmental heads seven clear days before the leave is required. Leave is considered granted when the applicant is in possession of a leave card exchanged for his control card from the Personnel Department.

**F. PROTRACTED ILLNESS:**

No workman will be discharged for protracted illness unless his illness exceeds six months or such other reasonable period as may be considered necessary beyond six months, provided he has from time to time obtained permission from the Company. Further, it is understood that although the Company will make every effort on return from protracted illness of the workman, the same job and/or rate may not be available to him.

*General:* Leave is considered as sanctioned when the applicant receives leave card from the Personnel Department or a communication granting leave. Leave can only be sanctioned and recorded in full days except on emergency and/or sickness.

If a workman is out of work for more than six months within the qualifying year all such leave with pay will be proportionately deducted for the period in excess of six months. This will not apply to Casual leave and Sick leave.

**14. RE-ALLOCATION OF WORKMEN RETURNING FROM LEAVE:**

(a) A workman returning from sanctioned leave on due date and time will proceed immediately to his old department and operation, or to the same rated similar operation in another department. If this is not possible the workman will be employed in the Training and Allocation Centre pending a suitable vacancy, but during this period will receive pay at the basic rate for the operation upon which he was last employed. In the event of a change of production having taken place during his absence on leave, the returning workman will have to accept the change in the same manner as all or some of his co-workers in the same department.

This provision does not apply to workmen rejoining after protracted illness.

(b) A workman who overstays sanctioned leave forfeits the privileges stated in Rules 14(a) and is treated as absent; but should he present himself for work within six working days of the expiry of his sanctioned leave, and the provisions of Rule 15 permit, he will be sent to the Training and Allocation Centre until a suitable vacancy occurs in a regular department in his operation. During this period, he will receive the "trained" rate of pay applicable under the Rules for his particular operation.

(c) Should a workman on due return from sick leave be deemed by the Company's Medical Officer temporarily unfit to work in a regular department, the Medical Officer may recommend that he be employed for a period of two weeks in the Training and Allocation Centre, where he shall be paid as provided in Rule 14(a). At the end of two weeks, the Medical Officer of the Company will re-examine the workman and may certify him for a further two weeks in the Training and Allocation Centre. At the end of this extended period, however, if the workman is still found unfit, he will be given such leave with pay as due to him or without pay, for further reasonable period as possible unless it is a fit case to come under Clause 22(a).

#### 15. LATENESS AND ABSENTEEISM:

(a) A workman not at his working place within five minutes of the generally appointed time for the starting of his work will be considered late, but will be allowed to commence work.

(b) If a workman's lateness in attending exceeds one hour, he may not be permitted to enter his department and/or to commence work until the commencement of the next working period besides being liable to disciplinary action for absence.

(c) Any workman who after presenting his Control Card ticket is found absent from his proper place of work during working hours without permission shall be presumed to be guilty of the offence of absenteeism and will be treated and for half the day in case his in case his absence commences before the recess period and for half the day in case his absence commences after the recess period. Such workman, apart from being punished otherwise, is liable to receive no wages and Dearness Allowance for the period of absence provided, however, if the absence does not exceed five minutes the punishment for the first offence will be only warning.

(d) No workman will be allowed during working hours to go for medical attendance except in case of serious nature and permitted by the Department and Personnel Department for minor ailments, if any, he will be attended to by the Foreman or some other executive in his own Department. If any workman so leaves his place of work without obtaining written permission, he will be treated as absent in accordance with the provisions mentioned in Clause (c) above and dealt with as such. Any workman who feels that he must have medical attendance will be given sick leave through the Personnel Department for the remaining period with or without pay as he may be entitled to and for further extension of such leave, if necessary, application under the rules must follow.

(e) A workman will be deemed absent, if he fails to attend to duty, without first obtaining written permission from the Personnel Department.

(f) Any workman guilty of the offence of absenteeism will, apart from being liable to deduction of wages and D.A., be further liable to disciplinary action.

(g) Any workman committing the offence of absenteeism, except continuous absence of seven consecutive working days, on the first three occasions will be deemed to have committed a minor offence and on the fourth occasion will be deemed to have committed a major offence, and is liable to such action as provided herein elsewhere.

(h) A workman who absents himself without leave for seven consecutive working days or more will be deemed to have left the services of the Company without notice thereby terminating his employment, and in such case the employment is automatically terminated and the Company may or may not give any notice informing such termination. If the workman within two weeks of the commencement of the absence offers an explanation to the satisfaction of the Personnel Officer both as regards inability to apply, inform, obtain leave earlier and the reasons of absence, the absence may be excused without pay and D. A. or with pay, if due and D. A., with such other disciplinary action as may be necessary and the automatic termination of service will be treated as cancelled. If, however, no such explanation is offered within the time mentioned above, no workman will be eligible to be excused for any reason whatsoever.

#### 16. PROMOTION:

Promotion is given at the discretion of the Company when suitable vacancies occur according to seniority, present efficiency, past records of conduct and efficiency, health at the time of promotion, age, nature of the job, ability and merit. Should a workman be placed temporarily in charge of a work in a more senior position either in Supervisory and Clerical staff or otherwise, this will neither be deemed as a promotion nor will it carry higher salary. If, however, one acts in a higher position for more than eight weeks or two months in a year, for the period beyond eight weeks or two months, he will be paid some reward or at the minimum of the higher grade or if his salary is already

higher than the minimum, then at the next higher scale of the grade acted, as Acting Allowance. For such acting work in a higher position for five days or one full working week at a time, he will not be eligible to any extra payment at all; but if such acting work extends beyond five days or one full working week at a time and falls short of eight weeks or two months totally, he will nevertheless be eligible to payment of 50 per cent of the Acting Allowance as aforesaid.

#### 17. TRANSFER:

The question of transfer is entirely at the discretion of the Company and a workman is bound to accept the transfer when made and provided that a claim that a workman has been transferred to his disadvantage can be the subject of grievance and dealt with as such. But in no event a workman would be entitled to refuse acceptance of the transfer or refuse to carry into effect the order so made even when he invokes the Grievance Procedure. Inter-State transfers are usually avoided and as far as possible made with the consent of the workman concerned.

#### 18. RETIREMENT AND RETIRING BENEFITS:

*A. Provident Fund:* Membership of the Company's Provident Fund is compulsory for all permanent workmen. The approved Rules are published separately.

*B. Gratuity:* Gratuity will be payable on the following eventualities and conditions:

(i) On the death of a workman while in the service of the Company, three weeks' basic wages only for each completed year of service provided he has been in the employment for at least three years' continuous service. This gratuity is to be payable to the widow of the deceased if living and if he died unmarried then to his father if living, otherwise in all other cases to the legal heirs as may be recognised by the Company.

(ii) On a workman invalidated by the Company having become physically or mentally totally and permanently disabled because of any serious accident or disease of a serious nature, three weeks' basic wages only for each completed year of service, provided he has completed three years' continuous service.

(iii) On voluntary retirement by the workman or retirement of the workman by the Company at its discretion or resignation of a workman but in all cases only after 15 years' continuous service, three weeks' basic wages only for each completed year of service.

(iv) On retirement by the Company by way of retrenchment after three years' continuous service but less than 15 years of service, a gratuity on the basis of two weeks' average salary for each year of service.

(v) Only one kind of gratuity will be payable and anybody who is paid a gratuity will not be eligible for re-employment.

(vi) The calculation of gratuity in all event will be on the average basic rates of wages of the last three years' service.

#### 19. STOPPAGE AND SHUT DOWN:

The Company may, in the event of fire, catastrophe, breakdown of machinery, failure of power, civil commotion, epidemics or for any other cause of a like catastrophic nature or for other reasons beyond its control, stop any machine or machines, department or departments, wholly or partly, for any period or periods without notice and without compensation in lieu of notice and without wages except as hereinafter provided.

##### A. STOPPAGE FOR CATASTROPHIC REASONS:

(a) In the event of stoppage for catastrophic reasons under this rule during working hours, the workmen affected shall be notified as soon as practicable regarding the resumption of work and will also be instructed as to whether they should remain in or leave the factory. This decision will normally be given within two hours of the commencement of the stoppage.

(b) If workmen are notified that they may leave the factory and the stoppage does not exceed a full working week, the affected workmen shall for the period of the stoppage but to the maximum stated receive 75 per cent. of their basic rate for the period of such stoppage, provided they present themselves for work on due date and time when notified of recommencement.

(c) Should the stoppage continue for more than a full working week, workmen affected will be given no further compensation beyond that mentioned in clause (b) hereof and will be considered temporarily unemployed. Reasonable notice, if practicable, of



the resumption of normal work will be given to such workmen, who, if they present themselves for work on the due date and time, will be re-instated without loss of privilege.

(d) Should the stoppage appear likely to continue for a long and indefinite period, workmen displaced will, in addition to the compensation mentioned above, be given payment in lieu of notice as provided in Rule 22 and will be treated as discharged. They will be entitled to preference in employment as and when suitable vacancies occur.

(e) This rule does not apply in the case of temporary cessation of production by reason of minor repairs to machinery or temporary want of materials or for reasons of a minor nature.

#### B. STOPPAGE FOR WHICH THE COMPANY IS RESPONSIBLE:

(a) In the event of stoppage of any machine or machines, department or departments, brought about by any deliberate act of the Company within its reasonable control, workmen affected will, for a maximum period of four working weeks, be paid compensation at the rate of 75 per cent. of their basic weekly rates for the first two working weeks and 50 per cent. of their basic weekly rates for the remaining two working weeks.

(b) Should the stoppage exceed the period of four working weeks, the affected workmen in addition to the compensation laid down will receive pay in lieu of notice as provided in Rule 22 and will be treated as discharged but will be entitled to preference in employment, as and when vacancies occur or work is resumed.

#### 20. SAFETY ARRANGEMENT:

Safety arrangements are provided by the Company throughout the factory where necessary and workmen are instructed in their proper use. Failure to use the equipment provided or to disregard the Safety Rules constitutes an offence.

#### 21. DISMISSAL:

*A. Misconduct:* For commission of any of the following acts of misconduct, the punishment is summary dismissal:

- (a) Theft, fraud or dishonesty;
- (b) Demanding, accepting or offering bribes or any illegal gratifications whatsoever;
- (c) Smoking anywhere within the factory limits;
- (d) Drunkenness, riotous or disorderly behaviour within the factory premises and/or while on duty;
- (e) Insubordination or disobedience;
- (f) Sleeping on duty;
- (g) Absence from duty post for the following: Staff of Watch and Ward, Staff of Fire Brigade, Staff of Boiler, Power House and Pump House. In respect of Watch and Ward staff posted on post having no telephone, temporary absence for attending call of nature will be excusable provided satisfactorily proved. Excuse of sickness will not be accepted, and in such event should take prior leave;
- (h) Disclosing commercial or manufacturing secrets or calculations or designs;
- (i) Any material mis-statements made on the Employment Proposal Form;
- (j) Anywhere within the Company's estate committing or inciting others to commit breaches of the law or rules of the Company, or the commission of any other act inimical to the interests of the Company;
- (k) Alone or in combination with others, anywhere within the Company's estate causing or calculated to cause physical pain or injury to other employees or approved residents;
- (l) The collection of money or distribution of propaganda leaflets or the posting of notices within the factory limits without the sanction in writing of the General Manager or Personnel Officer having been first had and obtained;
- (m) Committing any act of sabotage or any act likely to harm or endanger the Company's plant or property or likely to interfere with his own production and/or earning capacity or that of any other employee;
- (n) Engaging in or inciting others to engage in illegal strikes or slow-down of work;
- (o) Being found in possession of, or attempting to punch another workman's control card;
- (p) Being found guilty of more than three minor offences as defined in these rules;

(q) Unauthorised occupation or remaining in occupation after withdrawal of licence of Company's residential quarters;

(r) Conviction other than nominal fine or any criminal offence under the Indian Penal Code involving serious moral turpitude.

#### B. MINOR OFFENCES:

Minor offences are deemed to include negligence or neglect of work, inefficiency, temporary absenteeism, lateness or acts or omissions for which a fine may be imposed under the Payment of Wages Act. Each such act or omission shall unless otherwise provided constitute an offence and the Company reserves the right to impose the following penalties:

- (a) First offence ... .. Warning.
- (b) Second offence ... .. Warning which may be accompanied by a fine.
- (c) Third offence ... .. Warning which may be accompanied by a fine or suspension without pay for not more than three days.
- (d) Fourth offence ... .. Summary dismissal without notice or payment in lieu of notice.

Should however, no minor offence be committed within six months of the last such offence, the next minor offence will be treated as a first offence.

#### C. PROCEDURE:

(a) Any workman charged with an offence under these Rules, except in cases of lateness and absenteeism shall receive a copy of such charge and in all cases will be given an opportunity of offering his explanation, before any decision is arrived at. In awarding punishment, the Management will take into account the motive behind and the gravity of the offence, the workman's previous record and any extenuating or aggravating circumstances which may exist. A copy of the order passed by the Personnel Officer shall be available to workmen concerned.

(b) A workman who refuses to accept a charge sheet or to submit an explanation on being charged with an offence will be deemed to have admitted the charge against him. A workman who refuses to accept any communication addressed to him by the company will be liable to disciplinary action for insubordination.

#### 22. TERMINATION OF SERVICE:

The Company reserves the right to terminate the service of any workman:

(a) Where in the opinion of the Company based on medical opinion, a workman is deemed mentally or physically unfit, by giving 14 days' wages calculated at his basic rate of wages with Dearness Allowance in force in lieu of notice. In case of dispute, in respect of such unfitness, this will be referred to any other eminent medical man mutually agreed upon or to the Surgeon Superintendent, S. L. Karnani (P. G.) Hospital, and his decision would be final.

(b) For any other good and sufficient cause not specifically provided for, by giving 14 days' basic wages and Dearness Allowance in lieu of notice.

#### 23. COMPLAINT AND REMEDY:

(a) A workman wishing to raise any complaint arising from his employment will first do so in writing with his immediate superior and such complaint registered in a book to be maintained in each Department.

(b) Should the superior be unable to effect a satisfactory settlement in writing, he—the superior—will refer the complaint to his Manager within three days of the making of the original complaint. The Manager will examine the complaint, in the presence of the workman concerned and the Works Committee members of the Group, if he so considers necessary and attempt to effect a settlement in writing.

(c) If a settlement satisfactory to the complainant is not arrived at within five days of the complaint being referred to the Manager, it will be passed on forthwith by the Manager to the Personnel Department. If his immediate superior or the Manager fails to deal with his complaint during the time mentioned, he will be entitled to apply directly to the Personnel Department.

(d) The Personnel Department will examine the complaint in the presence of the complainant and any other workman or employee if considered necessary and make an

order on the complaint within ten days from receipt thereof by the Personnel Department and a copy of the order supplied to the workman.

(e) If the decision given by the Personnel Department is still not to the satisfaction of the workman, he can appeal in writing within seven days of receipt of the order of the Personnel Department to the Works Committee. The Works Committee will be entitled to refuse consideration of the appeal if not made in time. If the Works Committee arrives at any unanimous decision, it will then be referred to the Company with the recommendation to implement the decision so arrived at.

(f) If, however, no unanimous recommendation could be made by the Works Committee or the Company refuses to implement the unanimous recommendation of the Works Committee, the workman may refer the matter within one month of the intimation of the no-unanimous decision of the Works Committee or within one month of the refusal of the Company to implement the unanimous recommendation, to arbitration to be mutually agreed upon or to the Government through the Conciliation Officer for referring the matter to adjudication if the Conciliation Officer fails to effect a settlement between the parties.

During the pendency of these proceedings and without affecting the same, the dispute can always be negotiated between the Company and the Union.

#### 24. GRIEVANCE PROCEDURE:

If a workman desires to dispute or feels dissatisfied from any order passed against him by the Company other than in respect of an order arising out of any complaint made by him, the following procedure will be adopted:

(a) The workman will be entitled to appeal in writing to the Works Committee within seven days of receipt of such order. If the Works Committee arrives at a unanimous decision, it will make a recommendation to the Company to implement such unanimous recommendation.

(b) If, however, no unanimous recommendation could be made by the Works Committee or the Company refuses to implement the unanimous recommendation of the Works Committee, the workman may refer the matter within one month of the intimation of the no-unanimous decision of the Works Committee or within one month of the refusal of the Company to implement the unanimous recommendation, to arbitration to be mutually agreed upon or to the Government through the Conciliation Officer for referring the matter to adjudication if the Conciliation Officer fails to effect a settlement between the parties.

During the pendency of these proceedings and without affecting the same, the dispute can always be negotiated between the Company and the Union.

#### 25. PREFERENCE IN EMPLOYMENT:

Workmen who have completed three years' service and who have been retrenched from the company's service will be given preference in re-employment when suitable vacancies occur. Such re-engagement is subject to the physical fitness.

#### 26. HOUSING:

Residential accommodation on the Company's estate is allocated under licence at the Company's discretion to its employees. By accepting and using accommodation on its estate, workmen agree strictly to observe the Rules set out hereafter.

#### SCHEDULE I—WEEKLY BASIC RATES OF WAGES FOR PIECE-RATED WORKMEN

Grade	Rate	Grade	Rate
I	Rs. 36.50	IX	Rs. 20.50
II	31.50	X	20.00
III	29.00	XI	19.50
IV	27.00	XII	18.50
V	25.00	XIII	17.50
VI	24.00	XIV	17.00
VII	23.00	XV	16.50
VIII	22.00	XVI	16.00

## SCHEDULE II—HOURLY RATES CONVERTED INTO WEEKLY

		From	Basic weekly increment per year	To
Grade A	...	Rs. 24.50	Rs. 0.75	Rs. 36.00
" B	...	" 19.00	" 0.75	" 23.50
" C	...	" 14.25	" 0.75	" 18.75
Grade D—1st year	...	...	Rs. 13.00 (Basic Weekly)	
2nd year	...	...	" 13.50	
3rd year	...	...	" 14.00	
4th year	...	...	" 14.50	
5th year	...	...	" 15.00	
6th year	...	...	" 15.50	
7th year	...	...	" 16.00	

NOTE:—All these basic weekly rates of wages are based and payable on 100 per cent achievement of the planned weekly production as per estimates and calculations prepared by the Costing Department including allowable percentage of 'B' pairs.

The workmen engaged on piece-rate operation or otherwise are required to perform, apart from the normal work of production all other works incidental thereto and cleaning of machines, tools and equipment after the finish of work every day, removal of obstacles from machines before and on completion of everyday's work, heating of machines whenever necessary, emptying and cleaning of dust collectors wherever in existence, etc. The time taken for all the above matters as also the day to day normal and usual ordinary stoppage and dislocation and damage of machines and equipment, supply of power steam or water, delay in supply of materials, listening to broadcasts, minor pause to attend call of nature, etc., have been taken into consideration for achievement of daily and/or hourly production.

Certified under Section 5(3) of the Industrial Employment  
(Standing Orders) Act, 1946, this 26th day of April, 1955.

Sd./- R. N. BOSE, Certifying Officer, West Bengal.

## AGREEMENT BETWEEN THE TATA IRON AND STEEL COMPANY LIMITED AND THE TATA WORKERS' UNION

1 THIS AGREEMENT dated the 8th January, 1956, is between the TATA IRON AND STEEL COMPANY, LIMITED, Jamshedpur, (hereinafter referred to as "the Company") and the TATA WORKERS' UNION, (hereinafter referred to as "the Union").

### I. PREAMBLE

2. The purpose of this Agreement is to establish and maintain orderly and cordial relations between the Company and the Union so as to promote the interests of the employees covered by this Agreement and the efficient operation of the Company's business. The parties realise the importance and need of maintaining such good and co-operative management-labour relations for the effective and timely implementation of the schemes of modernisation and expansion programmes involving a capital expenditure of about Rs. 110 crores.

### II. MUTUAL SECURITY

3. To further the objectives of increased goodwill and co-operation, the Company and the Union give each to the other the following assurances for their mutual security.

4. The Company undertakes as hereinafter stated:

5. The Company will continue to recognise the Tata Workers' Union as the sole bargaining agent of employees at Jamshedpur in the Union sphere. In the case of supervisory staff, the Company will continue to deal with the Supervisory Unit in the Union in the same manner and subject to the same conditions as heretofore.

The Company agrees, in principle, to a Union membership security system and to the collection of Union subscriptions through the payroll in respect of employees other than

supervisory staff. The Company will be prepared to join the Union in approaching the Central or State Governments for any alteration that might be required in the law in order to permit the bringing into effect of the maintenance of membership and "check-off" provisions referred to above.

6. The Company will continue to give all reasonable facilities to the office-bearers of the Union to carry out their duties in the best interests of the employees so however that nothing is done which is detrimental to the normal and effective operation of the Company's business.

7. The Company will continue to give all reasonable facilities to the elected group representatives of the employees on behalf of the Union in the different departments and sections of the Company to attend the Union Committee meetings, general meetings and conferences and generally to discharge their duties as representatives of their respective groups provided however the time spent on such work does not interfere with their normal duty as employees.

8. The Company will continue to give facilities to the Union representatives on the Joint Committees to attend the Committee meetings during their working hours and to pay them their due wages for the time so spent.

9. The Company including its officers and representatives at all levels is bound by the provisions of this Agreement.

10. The Union undertakes on behalf of itself and each of its members as hereinafter stated:

11. The Union continues to recognise the right of the Company to take disciplinary action, according to the provisions of the Standing Orders against such employees as indulge in unauthorized activities. However an issue of fact of such nature may be subject to the grievance procedure.

12. The Union recognizes that there are functions, powers and authorities belonging solely to the Company prominent among which, but by no means wholly inclusive, are the rights of introducing new or improved methods or equipment, deciding the number and location of plants, the nature of equipment or machinery, the products to be manufactured, the methods and/or processes of manufacturing, the scheduling of production, the method of training employees, the designing and engineering of products and the control of raw materials, provided that where the employees' interests are adversely affected, the Union is consulted before the Company takes a decision and the Union reserves the right to represent their cases to the Management.

13. Subject to the provisions of this Agreement, the Union recognizes the right of the Company:

(i) to hire, transfer, promote or discipline employees, provided that, in hiring a person, ordinarily the normal procedure in that behalf will be followed and provided further that no one is transferred, discharged or disciplined without a reasonable cause and without going through the normal procedure. The reasonableness of the cause, however, may be subject to the prescribed grievance procedure;

(ii) to fix the number of men required for the normal operation of a section or department, provided that in the case of the existing sections and departments the Union is consulted before the Company takes a decision;

(iii) to make or change such rules and regulations regarding employees as the Company may deem necessary and proper, provided that such rules or changes in the rules are fair and reasonable and are made after consultation with the Union;

(iv) to eliminate, change or consolidate jobs, sections, departments or divisions. Provided that when the employees' interests are adversely affected the Union is consulted before the Company takes a decision and provided further that where jobs are consolidated and reduced number of employees are asked to increase their individual efforts in order to perform substantially the same amount of work formerly done by a larger number of employees and without any fair compensation in the form of incentive bonus or in any other form, the Union reserves the right to represent their case to the Management.

14. The Union, including its officers and representatives at all levels, is bound by the provisions of this Agreement.

### III. CLOSER ASSOCIATION OF EMPLOYEES WITH MANAGEMENT

15. The Company appreciates the view that an increasing measure of association of Works employees with Management in the working of the industry is desirable and would help (a) in promoting increased productivity for the general benefit of the enterprise, the employees and the country, (b) in giving employees a better understanding of their role

and importance in the working of the industry and in the process of production, and (e) in satisfying the urge for self-expression; and the Company and the Union agree to discuss and devise at an early date ways and means of progressively achieving that objective at appropriate levels and by gradual stages. The manner and method by which employees would be represented in the process of such association will be among the matters to be so discussed.

#### IV. PRODUCTIVITY

16. The Union, its officers and its representatives agree to give their full support and co-operation to the Company in the matter of securing improvement in labour productivity. The parties agree on the need to establish a standard force in each of the existing departments and declare that such standard force shall be fixed by the Company for securing improvement in labour productivity after consultation with the Union.

17. The Company assures the Union that: (i) there will be no retrenchment of existing employees; (ii) those employees required for jobs other than those in which they are at present employed will, wherever necessary, be trained for other jobs; (iii) the present average earnings of employees transferred or under training will be guaranteed to them.

18. The Union agrees that fixation of the number of men required for the normal operation of each existing section or department as referred to in the Clause 13(ii) shall be carried out and completed within a period of one year from the date of this Agreement. If there is any disagreement regarding such number, then the matter shall be referred to arbitration by independent experts to be mutually agreed upon by the Company and the Union and failing agreement to be appointed by the Government of India. The decision of such experts shall be binding on the Company and the Union.

19. The Company will be entitled, where there are more men in a section or department than the number fixed under Clauses 13(ii) and 18, to leave vacancies unfilled and also to transfer surplus men in one department to fill up essential vacancies in other departments or for employment on new plant as provided in the Standing Orders.

20. In view of the schemes of modernisation and expansion programmes referred to in the preamble and requiring men for manning the new sections and departments, and in view of the provision in Clause 19 regarding vacancies unfilled and transfer of surplus men after the fixation of the standard force of existing sections or departments, the Company agrees that vacancies occurring hereafter will be filled, except with the concurrence of the Union, till such time as the standard force is fixed under Clauses 13(ii) and 18.

#### V. JOB DESCRIPTION, JOB EVALUATION AND WAGE STRUCTURE

21. The Company and the Union agree that a programme of job evaluation should be undertaken in order to determine the value of each job and eliminate inequities in order subsequently to simplify the existing structure of wages and other payments to employees and place it on a rational basis.

It is further agreed that a Joint Committee consisting of an equal number of representatives of the Company and of the Union shall be appointed with an independent expert as Chairman for the work of job evaluation. The parties agree that the Joint Committee shall consist of suitably qualified representatives of the Company and the Union. The parties agree that the classification of jobs embodied in the report of this Joint Committee shall be accepted by both parties as forming the basis of the future structure of wages and other emoluments. Thereafter the parties shall negotiate the rates of the future structure of wages and emoluments.

#### VI. REVISION OF WAGES AND GRATUITY

22. As the review of the wage structure as mentioned hereinbefore is likely to take time and the Union has requested an immediate increase in the wages of the lower paid employees and ministerial staff and also the revision of the gratuity rules, the Company agrees to revise the wages of such employees on an *ad hoc* basis and to increase gratuity payments as mentioned below:

A. To all employees of the Company (including temporary employees and Company's employees on construction work) in Jamshedpur drawing:

(a) basic wages up to Rs. 3 per day for daily-rated employees; (b) basic wages up to Rs. 75 per month for monthly-rated employees; and (c) basic salaries up to Rs. 140 per month for clerical staff, including the typists,

a flat *ad hoc* additional payment (by way of special allowance not to rank as part of substantive pay for any purpose) of annas two per day for category (a) and Rs. 3-4-0

per month for categories (b) and (c) as from 1st January 1956; and a further flat *ad hoc* additional payment (by way of special allowance not to rank as part of substantive pay for any purpose) of annas two per day for category (a) and Rs. 3-4-0 per month for categories (b) and (c) as from 1st January 1957.

Marginal relief will be granted to employees drawing more than Rs. 3 per day in the case of daily-rated employees, Rs. 75 per mensem in the case of monthly-rated employees and Rs. 140 per mensem in the case of clerical staff.

B. For the purposes of the gratuity rules, in the case of all employees in Jamshedpur and no others, drawing basic salary or wages not exceeding Rs. 500 per month in the case of monthly-rated employees and equivalent daily rate in the case of daily-rated employees, the dearness allowance (but not the emergency bonus or food rebate or other allowances) shall be added to the basic salaries and wages for computing gratuity payments.

23. Subject to the provisions of Clause 22, the Company and the Union agree that there should be no further demands for increase in wages or emoluments (including gratuities) of employees until the coming into operation of the provisions of Clause 24. No further applications to the Permanent Joint Rates Committee shall be made or entertained unless there is a change in the job content.

#### VII. REVISION OF WAGES AND SEPARATION OF WORKS AND TOWN

24. (a) After the completion of the expansion of the Company's plant and of the job evaluation programme mentioned in clause 21, the Company and the Union agree to negotiate revised wages and emoluments separately for: (i) workers in the plant; (ii) subject to the provisions of Clause 5, supervisory staff in the plant (within the sphere of the Supervisory Unit of the Union); and (iii) town and other employees outside the Works.

(b) The Company declares that in such negotiations it will be prepared to offer, in recognition of the increased labour productivity and the larger profits resulting from the plant expansion programme, an appreciable upward revision in the wages and emoluments of the Works employees.

(c) The Company also records its considered view that as a result of past efforts to maintain parity of earnings between jobs in the Works and those outside the Works, the emoluments paid for the latter jobs have increased disproportionately and are substantially higher than those earned in other places in India and that therefore the larger profits resulting from the increased labour productivity in the Works should not entitle the Town and other employees outside the Works to an upward revision but their cases shall be considered on their own merits.

#### VIII. CONSTRUCTION OF QUARTERS

25. (i) The Company agrees to undertake to construct 300 one-room quarters and 1,700 two-room quarters by 31st March 1959, subject to the satisfactory conclusion of the land acquisition proceedings now pending. It is agreed that some of these quarters may be temporarily allocated to the construction staff recruited from outside Jamshedpur by the Consulting Engineers in connection with the two-million ton expansion project.

(ii) The Company agrees to instal, as early as possible, water taps in the great majority of the Company's quarters at a reasonable charge in the shape of increased rent.

and (iii) The Company agrees to extend the indoor accommodation of the Main Hospital.

#### IX. PROMOTIONS

26. It is the established policy of the Company that when vacancies occur, it shall fill them by internal promotion, wherever possible, rather than by outside recruitment, so as to ensure a maximum of opportunity for employees with demonstrated ability.

27. Promotions to non-supervisory posts shall be made on the basis of seniority provided the individual concerned is competent for the higher post. In order to ascertain his competence, his past performance will be taken into account.

28. No person will be promoted to a post for which a trade test has been prescribed unless he has passed the trade test.

29. Promotions to supervisory posts, which shall commence with the post of Assistant Foreman or its equivalent, will be made on the basis of merit from among those who possess the prescribed qualification and/or experience. A detailed procedure for promotion from the ranks of workmen to supervisory posts will be formulated by the Company in consultation with the Union.

30. Promotions to temporary posts will be governed in accordance with the existing rules, which have been agreed upon by the Company and the Union.

#### X. GRIEVANCE PROCEDURE

31. The Company and the Union agree that the objective of a good grievance procedure is the settlement of a grievance in the shortest possible time and at the lowest possible step.

32. It is agreed that a grievance procedure formulated in consultation with the Union shall be introduced in all departments and shall be strictly followed, subject to such modifications as may be agreed upon by the Company and the Union.

33. In departments where the grievance procedure is for any reason not introduced, an employee having any complaint or grievance shall first discuss the matter with his foreman. In the event a satisfactory settlement cannot be arrived at, it will be referred to the departmental head. The employee can at his option be assisted or represented by the Union representative in the department.

If the problem is still not satisfactorily adjusted, it may be referred to the appropriate Joint Committee and then to the Central Works Committee, if necessary, in accordance with the prescribed procedure.

#### XI. WORKS COMMITTEES

34. The Company and the Union agree to examine the working of the Works Committees with a view to improve the same. The Company will formulate proposals in this connection, which will be discussed with the Union and implemented with such modifications as may be agreed to by the Company and the Union.

#### XII. DISCIPLINE

35. The Union agrees to co-operate with the Company in maintaining discipline and avoiding waste of time by the employees.

36. The Company and the Union agree that while on the one hand any disciplinary action taken by the Company should be fair and just and not arbitrary, on the other hand, no action should be taken by the Union which short-circuits the established procedure. In particular, (a) the Union will not ask the Company to suspend action in individual cases pending a prior discussion with its representatives, and (b) the Company and the Union will co-operate in ensuring that differences are discussed and settled at the appropriate level. Intervention at the top Union and Management levels should take place only in exceptional cases.

#### XIII. DURATION OF AGREEMENT

37. The Company and the Union agree that this Agreement is adequate to the purpose set out in the preamble and that any attempt on the part of the Company or the Union to by-pass any of the provisions of the Agreement shall be construed as a violation of the Agreement.

38. This Agreement shall remain in effect in the first instance for a period of three years. It may be amended at any time by mutual consent. Its provisions shall conform with the Central or State laws, but the voidance of any clause or clauses for reasons of illegality shall not affect the balance of this Agreement which shall remain in full force and effect.

ON BEHALF OF THE  
TATA IRON AND STEEL COMPANY, LIMITED  
(Sd.) J. R. D. TATA,  
Chairman.

(Sd.) J. J. GHANDY,  
Director-in-charge.

ON BEHALF OF THE  
TATA WORKERS' UNION.  
(Sd.) M. JOHN,  
President.

(Sd.) V. G. GOPAL,  
General Secretary.



# **SUPPLEMENTAL AGREEMENT BETWEEN THE TATA IRON AND STEEL COMPANY LIMITED AND THE TATA WORKERS' UNION**

**FOR CLOSER ASSOCIATION OF EMPLOYEES WITH MANAGEMENT PURSUANT TO CLAUSE 15 OF THE AGREEMENT DATED 8TH JANUARY, 1956, BETWEEN THE TATA IRON & STEEL COMPANY LIMITED AND THE TATA WORKERS' UNION.**

1. In pursuance of Clause 15 of the Agreement between the Tata Iron and Steel Company, Limited, and the Tata Workers' Union dated 8th January, 1956, this Supplemental Agreement shall come into force on a date to be agreed between the parties, but not later than the 1st October, 1956, and shall be co-terminous with the principal Agreement.

## **I. PREAMBLE**

2. As stated in Clause 15 of the principal Agreement, "the Company appreciates the view that an increasing measure of association of Works employees with Management in the working of the industry is desirable and would help (a) in promoting increased productivity for the general benefit of the enterprise, the employees and the country, (b) in giving employees a better understanding of their role and importance in the working of the industry and in the process of production, and (c) in satisfying the urge for self-expression".

3. All matters connected with collective bargaining or falling within the sphere of Union relations shall be specifically excluded from the scheme embodied in this Agreement.

## **II. ORGANIZATION**

4. The following Joint Committees are already in existence:

At Departmental level—Advisory Development and Production Committees.

At Works level—(1) Plant Works Committees; (2) Non-factory Employees' Works Committee; (3) Central Works Committee; (4) Special Central Works Committee; (5) Permanent Joint Rates Committee; (6) High-Level Rates Committee; (7) Job Evaluation Committee; (8) Trade Test Specification Committee; (9) Minimum Qualifications Committee; (10) House Allotment Committee; (11) Medical Fitness Committee; (12) Central Canteen Managing Committee; (13) Safety Appliances Committee; (14) Suggestion Box Committee.

There are also the following Committees consisting at present of Management representatives only:—(1) Welfare Committee; (2) General Safety Committee; (3) Workmen's Benefit Fund Board of Trustees.

5. It is agreed that the following changes be made:—(i) The Advisory Development and Production Committees at Departmental level will be replaced by Joint Departmental Councils which, with enlarged functions, will be set up in all departments in accordance with Clause 6 of this Supplemental Agreement.

(ii) In accordance with Clause 3 of this Agreement, the following Joint Committees, which are concerned with collective bargaining or fall within the sphere of Union relations will be excluded from this scheme: (1) Plant Works Committees; (2) Non-factory Employees' Works Committee; (3) Central Works Committee; (4) Special Central Works Committee; (5) Permanent Joint Rates Committee; (6) High-Level Rates Committee; (7) Job Evaluation Committee; (8) Trade Test Specification Committee; (9) Minimum Qualifications Committee; (10) House Allotment Committee; (11) Medical Fitness Committee.

(iii) The following Committees will hereafter be reconstituted as Joint Committees: (1) Welfare Committee; (2) General Safety Committee; (3) Workmen's Benefit Fund Board of Trustees.

Subject to the provisions of any law for the time being in force, the Company will endeavour to secure representation for employees on the Board of Trustees of Workmen's Benefit Fund equal in number to that of the Company, excluding the Chairman, who is and shall be a nominee of the Company.

(iv) The following Committees will be placed under the supervision and control of the Joint Works Council set up under Clause 6 of this Supplemental Agreement: (1) Central Canteen Managing Committee; (2) Welfare Committee; (3) General Safety Committee; (4) Safety Appliances Committee; (5) Suggestion Box Committee.

6. Joint Departmental Councils, a Joint Works Council, a Joint Town Council and a Joint Consultative Council of Management shall be set up as hereinafter described.

7. The Company and the Union agree that whereas, in the first instance, the representatives of employees within the Union sphere shall be nominated by the Union, the employees within the sphere of the Supervisory Unit of the Union being fairly represented therein, steps shall be taken gradually to introduce the principle of election by secret ballot.

### III. JOINT DEPARTMENTAL COUNCILS

8. There shall be a Joint Departmental Council in each department of the Works. Such Councils shall, depending on the size of the department, consist of two to ten representatives of Management and an equal number of representatives of Works employees, including a fair representation of employees within the sphere of the Supervisory Unit of the Union. The representatives of Management shall be nominated by Management and those of employees by the Union from among the employees of the Company. The Chairman shall be designated by Management from among its representatives, and the Vice-Chairman by the Union from among the representatives of employees on the Council. The Council shall normally hold its meetings once a month. The term of office of the members shall be two years except that half of the original members of the Council shall retire at the end of the first year.

9. The functions of such Councils shall be as follows: (a) To study operational results and current and long-term departmental production problems.

(b) To advise on steps necessary at departmental level to promote and rationalise production; improve methods, layout and processes; improve productivity and discipline; eliminate waste; effect economies with a view to lowering costs; eliminate defective work and improve the quality of products; improve the upkeep and care of machinery, tools and instruments; promote efficient use of safety precautions and devices; promote employees' welfare and activities like sports/picnics; encourage suggestions; improve working conditions and better functioning of the department.

(c) To implement the recommendations or decisions of the Joint Consultative Council of Management or the Joint Works Council approved by Management.

(d) To refer any matter to the Joint Works Council for their consideration or advice.

### IV. JOINT WORKS COUNCIL

10. There shall be a Joint Works Council consisting of twelve representatives of Management and an equal number of representatives of employees. The representatives of Management shall be nominated by Management. The representatives of employees, including a fair representation of employees within the sphere of the Supervisory Unit of the Union, shall be nominated by the Union from among the employees of the Company, exclusive of those covered by the Joint Town Council, except that one of such representatives may be an officer of the Union who is not an employee of the Company. The Chairman shall be designated by Management from among its representatives and the Vice-Chairman by the Union from among the representatives of employees on the Council. The Council shall hold its meetings normally once a month. The term of office of the members shall be two years, except that half of the original members of the Council shall retire at the end of the first year.

11. The functions of the Joint Works Council shall be as follows:

(a) To study operational results and current and long-term production problems of the Works as a whole.

(b) To advise on steps necessary to promote and rationalise production; improve methods, layout and processes; improve productivity and discipline; eliminate waste; effect economies with a view to lowering costs; eliminate defective work and improve the quality of products; improve the upkeep and care of machinery, tools and instruments; promote efficient use of safety precautions and devices; promote employees' welfare and activities like sports/picnics; encourage suggestions; improve working conditions and better functioning of the Works as a whole.

(c) To plan and supervise the work of the following committees within the framework of duly approved budgets and Company rules and procedures: (1) Central Canteen Managing Committee; (2) Welfare Committee; (3) General Safety Committee; (4) Safety Appliances Committee; (5) Suggestion Box Committee.

(d) To follow up the implementation through the appropriate Joint Departmental Councils of its recommendations or decisions approved by Management.

(e) To refer any matter to the Joint Consultative Council of Management for their consideration or advice.

(f) To advise on any matter referred to it by the Joint Departmental Councils or by the Joint Consultative Council of Management or by Management.

12. The General Safety Committee, which at present consists of twelve Management representatives, shall be reconstituted to provide for eight Management representatives, including the Chairman, and four representatives of employees.

13. The composition of the present Welfare Committee, which consists of nine Management representatives, shall be altered to provide for five representatives of Management, including the Chairman, and five representatives of employees.

14. The composition of the Central Canteen Managing Committee, the Safety Appliances Committee and the Suggestion Box Committee, shall remain the same as at present.

15. The representatives of Management, including the Chairman, or the Central Canteen Managing Committee, the Welfare Committee, the General Safety Committee, the Safety Appliances Committee and the Suggestion Box Committee, shall be nominated by Management and those of employees by the Union.

16. The General Safety Committee, the Central Canteen Managing Committee and the Welfare Committee thus reconstituted and the Safety Appliances Committee and the Suggestion Box Committee, shall function as sub-committees of the Joint Works Council.

#### V. JOINT TOWN COUNCIL

17. There shall be a Joint Town Council consisting of six representatives of Management and six representatives of employees. The representatives of Management shall be nominated by Management. The representatives of employees, including a fair representation of employees within the sphere of the Supervisory Unit of the Union, shall be nominated by the Union from among the employees of the Company in the Town, Medical and Health Departments, including the Education Department, except that one of such representatives may be an officer of the Union who is not an employee of the Company. The Chairman shall be designated by Management from among its representatives and the Vice-Chairman by the Union from among the representatives of employees on the Council. The Council shall normally hold its meeting once a month. The term of office of the members shall be two years except that half of the original members of the Council shall retire at the end of the first year.

18. The functions of the Joint Town Council shall be as follows:

(a) To advise on steps necessary to promote, rationalise and improve output and methods of work, reduce costs, improve quality, effect economies, reduce waste and ensure improved working conditions and better functioning of the organization as a whole.

(b) To advise on social welfare activities in the Town within the frame-work of duly approved budgets and Company rules and procedures.

(c) To follow up the implementation of its recommendations or decisions approved by Management.

(d) To refer any matter to the Joint Consultative Council of Management for their consideration or advice.

#### VI. JOINT CONSULTATIVE COUNCIL OF MANAGEMENT

19. There shall be a Joint Consultative Council of Management consisting of eight representatives of Management and an equal number of representatives of employees, in addition to a Chairman. The representatives of the Company and the Chairman shall be nominated by the Company. The representatives of employees, including a fair representation of employees within the sphere of the Supervisory Unit of the Union, shall be nominated by the Union from among the employees of the Company, except that not more than two of such representatives may be officers of the Union who are not employees of the Company. The Council shall normally meet once a quarter at Jamshedpur or Bombay. The term of office of the members shall be two years except that half of the original members of the Council shall retire at the end of the first year.

20. The functions of the Joint Consultative Council of Management shall be as follows:

(a) To advise Management on all matters concerning the working of the industry in the fields of production and of welfare.

(b) To advise Management in regard to economic and financial matters placed by Management before the Council, provided that the Council may discuss questions dealing with general economic and financial matters concerning the Company which do not deal with questions affecting the relations of the Company with its shareholders or managerial staff or concerning taxes or other matters of a confidential nature.

(c) To consider, and advise on, any matter referred to it by the Joint Works Council or the Joint Town Council.

(d) To follow up the implementation through the Joint Works Council or the Joint Town Council of any recommendations made by it and approved by the Company.

#### VII. GENERAL

21. In order to enable the aforesaid Joint Consultative Council of Management, the Joint Works Council, the Joint Town Council and the Joint Departmental Councils, to exercise their functions effectively, the Management will make available to them relevant information, data and statistics, including such financial information as may be necessary for the proper understanding of any matter under consideration. The Company will be free to withhold information or data of a confidential nature or the disclosure of which would, in the Management's opinion, be detrimental to the interests of the organisation.

22. In order to ensure the effective functioning of the aforesaid Joint Councils, Management shall set up an appropriate Central Secretariat and shall bear the expenses of such Secretariat.

23. The parties agree that in the event legislation is enacted providing for employees' association with the management of companies, the provisions of this Supplemental Agreement shall continue with or without modification only as may be agreed upon between the parties.

ON BEHALF OF THE  
TATA IRON AND STEEL COMPANY, LIMITED  
(Sd.) J. R. D. TATA,  
*Chairman.*

ON BEHALF OF THE  
TATA WORKERS' UNION.  
(Sd.) M. JOHN,  
*President.*

(Sd.) J. J. GHANDY,  
*Director-in-charge.*

(Sd.) V. G. GOPAL,  
*General Secretary.*

August 4, 1956.

### AGREEMENT BETWEEN THE MODI SPINNING & WEAVING MILLS CO., LTD., MODINAGAR AND THE MODI SPINNING & WEAVING MILLS KARAMCHARI UNION, MODINAGAR

This Agreement is being entered into between the Modi Spinning & Weaving Mills Co., Ltd., Modinagar (hereinafter called the Company) and the Modi Spinning & Weaving Mills Karmachari Union, Modinagar (hereinafter called the Union).

In order to establish and maintain orderly and cordial relations between the Company and the Union, so as to promote the interest of the employees covered by this agreement, and the efficient operation of the Company's business, and realising the importance and need of maintaining such good and co-operative, management-labour relations for the effective and timely implementation of the schemes of modernisation, productivity and expansion, the parties hereby enter into the following agreement:—

#### I. MUTUAL SECURITY.

(1) To further the objectives of increased goodwill and co-operation, the Company and the Union give each to the other, the following assurances for their mutual security:

(2) The Company undertakes as hereinafter stated:—

The Company will continue to recognise the Modi Spng. & Wvg. Mills Karmachari Union, as the sole bargaining agent of the employees of the Modi Spinning and Weaving Mills, Modinagar (which includes Modi Hosiery Works and the Modi Rayon and Silk Mills).

(3) The Company will continue to give all reasonable facilities to the office bearers of the Union to carry out their duties in the best interest of the Union and employees, so that nothing is done which is detrimental to the normal and effective operation of the Company's business.

(4) The Company will continue to give facilities to the Union representative on the Joint Committee to attend the Committee meetings during their working hours and to pay them their due wages for the time so spent.

(5) The Company including its officers and representatives at all levels, is bound by the provisions of this agreement.

The Union undertakes on behalf of itself and each of its employees; as hereinafter stated:—

(6) The Union recognises and will continue to recognise the following rights of the Company:—

(i) To take disciplinary action, according to the provisions of the Standing Orders, against such employees as indulge in acts not authorised by the Standing Orders. However, an issue of facts of such nature may be subject to the grievance procedure.

(ii) To exercise the rights of introducing new or improved methods of equipments, deciding the number and location of plants, the nature of equipment and machinery, the products to be manufactured, the methods of processes of manufacturing, the scheduling of production, the method of training of employees, the designing and engineering of products, and control of raw material, provided that where the interest of the employees is adversely affected the Union will be consulted, and the Union reserves the right of representation to the Management.

(iii) To hire, transfer, promote or discipline employees according to the procedure given in the Standing Orders. The reasonableness of the action will, however, be subject to the grievance procedure.

(iv) To fix the number of men, required for the normal operation of a section or department, provided that in the case of the existing section or department, the Union is consulted before a decision is taken.

(v) To make or change such rules and regulations regarding employees as the Company may deem necessary or proper provided these are fair and reasonable and are made after consultation with the Union.

(vi) To eliminate, change, or consolidate jobs, sections, departments or divisions, provided that when such an action affects the interest of the employees adversely, the Union is consulted before the Company takes a decision.

Provided further, that where jobs are consolidated and reduced number of employees are asked to increase their individual effort in order to perform substantially the same amount of work, formerly done by a larger number of employees, and without any fair compensation in the form of incentive bonus or in any other form, the Union reserves the right to represent their case to the Management.

(6) In case of disagreement between the Union and the Company on any issue, the matter will be referred to the Conciliation Committee in the factory.

(7) The Union including its officers and representatives at all levels, is bound by the provisions of this Agreement.

## II. CLOSER ASSOCIATION OF EMPLOYEES INTO MANAGEMENT.

(8) The Company appreciates the view that an increasing measure of association of the employees with the management, in the working of the industry, is desirable and would help:—(a) In promoting increased productivity for the benefit of industry, employees, and the country. (b) In giving employees a better understanding of their role and importance in the production. (c) In satisfying the urge for self-expression.

and the Company and the Union, therefore, agree to discuss and form 'Joint Consultation Committees' within a period of three months from the formation of a Central Committee for the undernoted purposes to begin with:—

(i) General problems which have an influence on the operation of undertaking. (ii) Conditions in the plant such as ventilations, lighting, noise, temperature and factory hygiene. (iii) Amenities such as rest rooms, health services, housing, canteen services and recreation. (iv) Safety and accident prevention. (v) Measures of increasing efficiency.

(9) A Central Committee will be formed within a period of one month from the date of signing of this agreement, having an equal number of the representatives nominated by the Union as well as the Company, subject to a maximum of seven from each side. The purpose of this Committee will be to form committees as mentioned above, to decide scope and details of work, to supervise their working, and to attend to the functions mentioned in item (iii) and (iv) of column 8.

'Joint Committees' will be formed in each department, for the purposes mentioned in items (i), (ii), (iv) and (v) of para 8 above, and will consist of equal number of nominees of the Union and the Company, but not more than four from each side.

The Labour Welfare Officer will be acting as convener of the Central Committee and all the mill committees. The departmental committees will be convened by the department heads and record maintained by them. On a demand from the workmen, Union or Management, meeting will definitely be called within three days.

### III. PRODUCTIVITY—JOB EVALUATION AND WAGE STRUCTURE.

(10) As an atmosphere of good human relations based on active co-operation between the employers and workers, is necessary for participation in a productivity programme, the Union, its officers and its representatives agree to give their full support and co-operation to the Company in the matter of securing improvement in labour productivity. For the purpose of doing so standard force in each department will be fixed by the Company in consultation with the Union.

(11) The Company assures the Union that: (a) There will be no retrenchment in the existing staff. (b) Those workers who are required for jobs other than those on which they are working, if not trained on the jobs will be so trained. (c) No such change will affect the average earnings of the employees.

The Union agrees that the details about this fixation of a standard force will be worked out by the management in each of the existing departments within a period of one year, from the date of this agreement. In case of any disagreement between the Union and the management regarding the number of hands in a department the matter shall be referred for arbitration to an independent expert mutually agreed upon by the Company and the Union, within a week's time. The decision of such an arbitrator will be binding on both the parties.

The Company will be entitled to leave any vacancy resulting from the above arrangement unfilled or to transfer the surplus men from any department to the other without affecting his status and wages.

(12) The Company and the Union agree that there are few jobs of similar designations, where certain inequalities in the wages exist and that it is desirable to simplify the structure of labour and wages in these particular jobs. It is, therefore, agreed that the central committee will select such jobs, and after it is done, will take into consideration the job evaluation of these jobs, for simplifying the structure as mentioned above. At that time it would be kept in view, that no decision affects the total wage bill of either of the parties except to a reasonable extent and suitable and easily understood system of payment by good piece work results is brought under consideration, because these results provide the workers an interest in the higher output along with maintenance of required quality. Such a thing will contribute effectively to the increased wages and productivity.

The committee will complete the whole job within a period of one year from the date of its formation.

(13) At the request of the Union, the Company as a gesture of goodwill, has already granted an increase in the wages of the unskilled hands drawing Rs. 2/2/- per day in certain cases and as the Union is pressing for some more hands of the same category who have been left out, the Company in the same spirit as expressed above agreed to bring all the unskilled hands drawing Rs. 2/2/- per day to Rs. 2/4/- per day from 6-3-56. After a period of six months the minimum wage will be raised to Rs. 2/5/- per day, the Union thereby agrees not to raise the issue of minimum wage in job evaluation. They further agree that all clerks whose pay is up to Rs. 110/- per month, and who have at least put in two years' service in the concern on the date of this agreement will be given a flat rate increment of Rs. 5/- per month from 6-3-56, subject to such marginal adjustment as may be necessary.

### IV. PROMOTIONS.

(14) It is the established policy of the Company that in case of any vacancy occurring, the same shall be filled by internal promotions wherever possible rather than by recruitment from outside, so as to ensure a maximum opportunity for the employees with distinguished ability. The Union and the Company, therefore agree that the head of the department will make promotions, keeping in view, the provisions mentioned hereunder. Any grievance relating to this will be considered by the conciliation committee.

The same procedure will apply in case of Badlies for higher jobs provisions are as under:—(i) Seniority, (ii) Ability. In order to judge this, certain qualifications including education, technical experience, etc., will be prescribed. In order to secure the best possible justice a trade test may also be prescribed. (iii) Efficiency:—In order to judge this, previous service record will be kept in view. (iv) Health. (v) General suitability:—In this case general qualifications like personality, the control over workers' behaviour towards officers and workmen, and other matters may be presented. Promotions to the supervisory posts like those of the foremen and assistants in the department will be made by the Company at its discretion from outside or from amongst the existing staff.

## V. BONUS.

(15) The Union and the Management have seen with interest the agreement recently entered into between the Millowners Association and Labour Association, Ahmedabad, with regard to the payment of Bonus, and they agree on principle that a scheme for payment of Bonus in this factory will be worked out by the Union and the Company keeping in view particularly the fact that the wages in the Modi Spinning and Weaving Mills are consolidated wages instead of basic wages, which is the basis of that agreement. The scheme will guarantee a minimum bonus every year. The scheme prepared will be binding on both parties.

(16) The Union and the Company agree on principle, that in case of the workmen falling a victim to malignant diseases like Tuberculosis and Cancer, during the employment, the Company agree to give suitable medical aid to such workmen for the period prescribed in the scheme, but till the time that the Employees State Insurance Scheme is not enforced in Modinagar and to allow compensatory help to such workmen, who are disabled from work due to these diseases. The Union and the Company also agree that the central committee will frame a scheme for carrying out the objects mentioned in this para prescribing the terms and conditions of the same.

## VI. GRIEVANCE PROCEDURE.

(17) In order to maintain cordial relations between the Company and the employee it is always essential to have such a procedure for removing the grievance that the shortest possible time is taken to achieve the objective. At present there is existing a Conciliation Committee in the industry which has the recognition of the Provincial Government under the Industrial Disputes Act and it is doing good service to the parties but in order to make the system more exhaustive the Union and the Company here agree as under:—

Any grievance by a workman will first be reported by him to the shift assistant, and in case it is not redressed then to the departmental head. At his request the Union will assist him.

In case the grievance is not redressed by the above mentioned officers, it may be referred to the Joint Committee of the department.

For this purpose the Joint Committee set up under clause 9 for general problems will have the cognizance. In case the grievance is not redressed within a period of one week by the department the same will be referred to the Conciliation Committee existing at present in the factory.

Any decision made unanimously by the joint Committee will be binding on both the parties.

## VII. GENERAL.

(18) The time limit prescribed for the Committee under this agreement for framing scheme or reports may be extended by mutual consent, in accordance with the exigencies of work.

(19) As the carrying out of the objectives mentioned in this agreement can be effective only if the parties concerned i.e., the Company as well as the Union and the workers follow the same with loyalty and in a spirit of mutual respect, both the parties under take to follow it with sincerity to good labour management relations.

(20) The Union, therefore, agrees to co-operate with the Company in order to maintain discipline and avoiding waste of time by the employees.

(21) The Company agrees that while on the one hand no disciplinary action will be taken by the Company unless it be fair and just and arbitrary, on the other hand no action should be taken by the Union ignoring the procedure laid down in this agreement.

This Agreement shall remain in effect in the first instance for a period of three years. It may be amended at any time or extended after the above period by mutual consent. In case, any law or Government order having the force of law, is issued concerning any one of the subjects, covered by this agreement, the Union and the Company agree that this agreement shall stand modified to the extent to which that law or Government order applies to this factory.

Signed this 6th day of March, 1956 at Modinagar (U. P.).

For the Modi Spg. & Wvg. Mills Karma-  
chari Union, Modinagar,  
Sd./- RAM SINGH, President.  
Sd./- MAST RAM, Secretary.

For the Modi Spg. & Wvg. Mills Co., Ltd  
Modinagar,  
Sd./- K. N. MODI, Managing Director  
Sd./- O. N. MISRA, Lab. Com. witness

## **AGREEMENT BETWEEN THE NATIONAL NEWSPRINT AND PAPER MILLS LTD., NEPANAGAR AND REPRESENTATIVES OF THE EMPLOYEES<sup>1</sup>**

WHEREAS the employees of the Nepamills have submitted a notice of change under Section 32 of the Central Provinces and Berar Industrial Disputes Act, 1947 through their elected representatives AND

WHEREAS during the mutual negotiations it has been possible for the management to concede to reasonable demands of the workers, the management and the representatives of employees hereby enter into an agreement as noted below:

1. **BASIC PAY**—Both parties agree that the minimum basic wage for employees engaged in this mill shall be Rs. 25/-. It is further agreed that as soon as the present registered Union gets itself recognised under Section 4 of the C. P. & Berar Industrial Disputes Act, 1947 a Works Committee will be formed. The functions of the Works Committee would be in accordance with the provisions of the said Act and the Rules made thereunder.

2. **DEARNESS ALLOWANCE**—It is agreed by both the parties that the dearness allowance shall be Rs. 35/- upto a basic salary of Rs. 150/- instead of Rs. 30/-.

3. **MEDICAL AID**—The Management agree to use their good offices in moving the Government to implement the Employees State Insurance Scheme in Nepanagar as early as possible. Pending application of the scheme the management would give free medical aid to their employees and their dependents.

4. **ACCOMMODATION AND HOUSE RENT**.—It is agreed that the house rent would be calculated on the basic wages drawn by the employees and not on total emoluments. The rent would be charged as follows: (a) employees drawing Rs. 150 to 400/- would pay rent at 7½% of their basic wages; (b) employees drawing less than Rs. 150/- would pay rent at 5% of their basic wages.

If an employee voluntarily accepts accommodation superior to that which he is entitled he would be required to pay the minimum rent fixed for a superior type of accommodation. In case the management allot accommodation to an employee which is superior to the one he is entitled to, he will not be required to pay the minimum rent for the superior accommodation but would continue to pay the rent on the basis of accommodation to which he is entitled. In order to ensure that allotment of accommodation is properly made and due rent recovered it is agreed that a committee with equal number of representatives of the workers and the management will be formed for the purpose of advising the management in the matter of allotment of quarters of the D, E and F type.

5. **BONUS**—The demand for bonus is withdrawn by the representative of the employees for the present.

6. **CONVEYANCE IN TOWNSHIP**—It is agreed that the management would give advances to its permanent employees for the purchase of cycles, amount of loan being recoverable in 12 monthly instalments. Loan will be given to employees drawing emoluments up to Rs. 400/-. No other transport facilities will be given by the management to the employees drawing emoluments up to Rs. 400/-. For employees drawing more than Rs. 400/- the Managing Director may frame rules for the grant of transport facilities on such terms and conditions as he may deem fit.

7. **FORMULATION OF VARIOUS COMMITTEES**—(a) It is agreed that a committee consisting of an equal number of representatives of the employees and the management would be formed to advise the management in regulating market prices in Nepanagar and other problems arising therefrom.

(b) It is also agreed that a committee consisting of an equal number of representatives of the employees and the management will be formed to advise the management on the question of welfare measure and other amenities to be provided for the workers.

The representatives of the workers also agree to co-operate with the management in achieving full production at an early date. They further agree to extend full co-operation to the management in maintaining discipline and the highest standard of efficiency.

Both parties affirm their faith in democratic principles and hereby bind themselves to settling all future disputes if any, by mutual negotiation, conciliation and voluntary arbitration and to avoid strike-s, lockouts, coercion, illegal practices, victimisation and recourse to Courts of Law. The Management on their part agree to the principle of progressively associating the workers at appropriate levels in the formulation of welfare

<sup>1</sup> This is an Agreement under section 34 of the Central Provinces and Berar Industrial Disputes Act, 1947.



and work policies, while the workers on their part undertake to serve the Industry with patriotic devotion.

This Agreement will take effect from 1-3-1956 and shall be binding on both the parties for a period of five years which coincides with the Second Five Year Plan.

**REPRESENTING EMPLOYEES.**

Sd./- . . . . .

Sd./- . . . . .

Sd./- . . . . .

Sd./- . . . . .

Sd./- . . . . .

**REPRESENTING EMPLOYER**

Sd./- RAGHO RAJ SINGH,

Managing Director,

for The National Newsprint & Paper Mills, Ltd.

Nepanagar, 21/2/56.

**AGREEMENT BETWEEN INDIAN ALUMINIUM COMPANY LIMITED,  
BELUR WORKS AND INDIAN ALUMINIUM  
BELUR WORKS EMPLOYEES' UNION**

AGREEMENT made and entered into this Thirty-first day of August One Thousand Nine Hundred and Fifty-six by and between the INDIAN ALUMINIUM COMPANY LIMITED, BELUR WORKS, (hereinafter referred to as the "Company"), party of the First Part; and the INDIAN ALUMINIUM BELUR WORKS EMPLOYEES' UNION (hereinafter referred to as the "Union"), party of the Second Part. WITNESSETH:

WHEREAS, the Union has been recognised as the sole collective bargaining agent for the employees, as defined in Section 4(c) of Article III of this Agreement, now employed and hereafter employed by the Company during the life of this Agreement, and

WHEREAS, it is the intention and purpose of the parties hereto to promote and improve industrial and economic relations between the Company and its employees and economic well-being of the country and to establish a basic understanding relative to wage rates and other conditions of employment and of means for the amicable adjustment of all disputes and grievances and to achieve the highest level of employee performance consistent with safety and good health, and

WHEREAS, the term of the First Agreement, dated Fourteenth March One Thousand Nine Hundred and Fifty-one has expired and it has been felt necessary by both parties to execute a new agreement, and

WHEREAS, in view of the experience of the First Agreement, it has been felt necessary by both parties to establish new and more direct means and methods for adjusting disputes arising out of the agreement between the parties hereto, and

WHEREAS, this Agreement has been negotiated by the party of the First Part and the party of the Second Part and has provided new methods of procedure;

Now, therefore, in consideration of the above and in further consideration of the mutual benefits and advantages to be derived therefrom the parties hereto mutually agree as follows:

**ARTICLE I—PURPOSE AND INTENT OF THE AGREEMENT.**

1. The purpose of this Agreement is to provide orderly collective bargaining relations, to secure prompt and fair disposition of grievances, to establish fair wages and other working conditions, to maintain harmonious relationship between the employees and the Company, to prevent strikes, lock-outs and slow-down, to attain efficient and uninterrupted operation in the Plant and to promote the stability and prosperity of the industry for the benefit of all who are dependent on this industry.

2. For achieving the above objectives the Company and the Union agree to encourage the highest possible degree of friendly, co-operative relationship between their respective representatives at all levels and with and between all employees. The Company and the Union believe that this goal depends primarily on attitudes between people in their respective organisations and at all levels of responsibility. Both parties believe that proper attitude must be based on full understanding of and regard for the respective rights and responsibilities of both the Company and the Union.

**ARTICLE II—SCOPE OF THE AGREEMENT.**

3. This Agreement shall apply to the Company's Belur Rolling Mills and both the Union and the Company shall be bound by the terms of this Agreement for the full period hereof and all employees as defined in Section 4(c) of Article III shall be entitled to the benefits of this Agreement.

ARTICLE III—DEFINITIONS.

4. For the purpose of this Agreement

(a) "Company" means the Indian Aluminium Company Limited, Belur Works.

(b) "Union" means the Indian Aluminium Belur Works Employees' Union.

(c) "Employee" means any workman who is now employed or will be hereafter employed by the Company at its Belur Rolling Mills and for whom the Union can act as authorised Collective Bargaining Agent.

(d) (i) "Worker" means any employee as defined in Section (c) of this Article employed on daily rate basis.

(ii) "Productive worker" means any worker working in any of the following departments or sections:

Remelt, Sheet Mill, Inspection, Packing and Shipping.

(iii) "Non-productive worker" means any worker working in any department or section other than those mentioned in Sub-section (ii) of this section.

(iv) "Productive staff" means any employee on monthly salary roll working in any of the departments or sections mentioned in Sub-section (ii) of this section.

(v) "Non-productive staff" means any employee on salary roll working in any department or section other than those mentioned in Sub-section (ii) of this section.

(e) "Earnings" means basic pay plus dearness allowance only but excludes leave pay, Company's provident fund contribution, overtime payment, cash equivalent of benefits and privileges and any other allowance.

(f) "Standard rate" means rate of performance determined and accepted as standard by work study.

(g) "Efficiency" means actual rate of performance relative to standard expressed in percentage, efficiency at standard rate of performance being taken as 100 per cent.

(h) "Machine efficiency" means average operating efficiency on a machine.

(i) "Overall Plant efficiency" means the flat average of efficiencies at the following machine centres:

Flat Mills, Strip Mills, Finish Shears, Stretcher, Flattener, Circle Shears and Circle Presses.

(j) "Inspection" means the usual standard testing and checking for quality, specification and workmanship.

(k) "Recovery" means quantity of finished material produced and passed inspection expressed as a percentage of the quantity supplied to Hot Mill and processed thereafter to finishing and inspection.

(l) "Bonus" is the consideration paid by the Company to the employees over and above their normal earnings and standard allowance on basis of overall plant efficiency and output.

(m) "Bonus Year" means the twelve month period from the first day of September to the thirty-first day of August.

(n) "Output" means quantity of finished goods processed through the Sheet Mill and passed inspection.

(o) "Grievance" means any controversy between the Company on the one hand and the Union or an employee or employees covered by this Agreement on the other hand, as to (1) any matter relating to working conditions not specifically covered by this Agreement, existing legislation, award or order, and (2) to any matter involving the interpretation or violation of any provision of this Agreement, existing legislation, award or order, but not any controversy as to any matter specifically covered by any provision of this Agreement, existing legislation, award or order.

ARTICLE IV—RIGHTS AND RESPONSIBILITIES.

5. It is agreed that the respective rights and prerogatives of the Management and the employees will be respected by both parties and that effective steps will be taken from both sides to discharge the joint responsibility towards fulfilment of objectives of this Agreement.

6. It is agreed that the Company will recognise the Indian Aluminium Belur Works Employees' Union as the sole collective bargaining agent of employees at Belur Works.

7. The Union accepts that it is the responsibility of the Management to maintain discipline and efficiency in the plant, and the right of the Management to hire, discipline and discharge employees for just cause and transfer and relieve employees from duty

because of inefficiency or lack of work is expressly recognised subject to the right of appeal through the Grievance Procedure.

8. It is agreed that introduction of time standards and selection, placement and distribution of personnel are the responsibilities of the Management subject to the right of appeal through the Grievance Procedure.

9. It is agreed that the right to plan, direct and control operations of the plant, to introduce new or improved production methods, to expand production facilities and to establish production schedules and quality standards are solely and exclusively the responsibilities of the Management. The Management's authority to perform these and other duties will be respected in every case. In case any order issued in the discharge of these duties is considered a cause for grievance, workers should in the first instance obey the order and then proceed for the redress of the grievance in accordance with the Grievance Procedure.

10. It is agreed that it is the right of the Management to make such reasonable rules and regulations, not in conflict with this Agreement or any statute in force, as it may from time to time deem best for the purpose of maintaining order, safety or effective operation of the Company's work and to require compliance thereof by employees. Failure to comply with such rules and regulations will amount to punishable offence which will not be supported or encouraged by the Union.

11. It is agreed that it is the duty and the responsibility of the supervisory staff to utilise the men and machines at their disposal for getting production in the manner they think best consistent with the terms of this Agreement and that their orders and instructions will always be respected and complied with.

12. It is agreed that shift assignment, work allotment, transfer, promotion, demotion etc. shall be the responsibility of the Management provided however that when this amounts to a punishment remedies can be sought for through the constitutional Grievance Procedure.

13. It is agreed that the Management will not support or encourage any unfair labour practice and shall take effective steps to put a stop to such practice, if and when adopted and brought to the notice of the Management.

Interfering with right of employees to become or continue as members of the Union, discrimination, restraint or coercion against any employee because of membership in the Union, interfering with, restraining or coercing employees in the exercise of their rights to organise, form or join their Union or abusing authority to victimise an employee wrongfully and maliciously will be considered as unfair labour practice.

14. It is agreed that the Company will give all reasonable facilities to an authorised Union representative, whose name shall previously be intimated to the Management, to collect Union membership dues at his time near the Pay Counter on pay day.

15. It is agreed that the Company will allow Union members in Joint Committees to attend Joint Committee meetings and make field studies without loss of pay and give all reasonable facilities to authorised Union representatives to carry out their duties in the best interests of the employees so however that nothing shall be done which is detrimental to the normal and efficient operation of the Company's business. A Union representative required to leave the Works for this purpose may do so with the permission of the Departmental Head.

16. It is agreed that the Union will not support or encourage any unfair Union practice, *e.g.* utilising employees' official status to further Union activities, carrying on Union activities during working hours, divulging confidential information of the Company to the Union or outsiders, adopting unconstitutional methods for furtherance of Union demands, holding Union meetings within the factory premises, etc. Joining the Union will be a matter of free choice to the employees.

17. It is agreed that strict discipline will be maintained in the shops and in the offices and that violation of discipline will amount to a punishable offence which will not be encouraged or supported by the Union.

18. It is agreed that negligence of duty, careless operation, damage to Company's property, interfering with normal work, loitering aimlessly in the factory compound, offices or work places and causing disturbance to others, insubordination, indiscipline etc. will be deemed as punishable offences which will not be encouraged or supported by the Union.

19. It is agreed that the certified Standing Orders in force at present or as modified from time to time will be respected and violation of this will amount to a punishable offence which will not be supported or encouraged by the Union.

20. It is agreed that for the purpose of redress of grievances, constitutional procedure as laid down in the Grievance Procedure, described in Article XII of this Agreement, will

be followed. Unconstitutional methods, *e.g.* demonstration, intimidation, coercion, violence, use of abusive languages, posting and distribution of unauthorised pamphlets or posters, wilful damage to the Company's property, slow-down of work etc. will not be adopted, supported or encouraged by the Union. Any employee or employees adopting such unconstitutional method or methods will be liable to punishment.

21. It is agreed that the Union shall give its full support and co-operation to the Company in the matter of securing improvement in labour productivity.

ARTICLE V—WAGES.

22. The Company shall pay wage rates in accordance with the Wage Schedule, now in force, prepared on the basis of Job Evaluation done by the Joint Job Evaluation Committee composed of representatives of both the Company and the Union and agreed to and accepted by both the parties. The Wage Schedule is given in Annexure I to this Agreement.

23. The wage scale of any job shall be the wage scale of the grade into which the job fits

24. The job description, classification and wage scale for jobs in existence shall not be altered during the term of this Agreement unless the job value changes considerably as a result of a major change in the job character.

25. No basis shall exist for an employee to allege that a wage rate inequity exists and no grievance on behalf of an employee alleging a wage rate inequity shall be filed or processed during the term of this Agreement.

26. If and when any new job is created or job character of any of the existing jobs changes considerably warranting a re-evaluation, the wage scale will be established or modified, as the case may be, by Job Evaluation to be done by the Joint Job Evaluation Committee and additions or changes will be incorporated in the Wage Schedule. For this the procedure laid down below will be followed:

(a) Management will first prepare a job description for the purpose of evaluation. If the job description is considered faulty by the Union representatives, it will be discussed and if necessary revised following a field study as required.

(b) The Committee will make sure that the job is standardised or that it needs evaluation. No job will be taken up for evaluation until it is standardised.

(c) Each job will be analysed into eleven elements or factors, each covering five degrees representing respectively minimum, low, average, high and maximum. The factor and degree table is given below.

FACTORS	Degree Table				
	1	2	3	4	5
(a) Experience and/or training period ...	35	70	105	140	175
(b) Responsibility and/or dependability ...	25	50	75	100	125
(c) Intelligence ... ..	25	50	75	100	125
(d) Mechanical ability ... ..	30	60	90	120	150
(e) Process Knowledge ... ..	20	40	60	80	100
(f) Motor accuracy and dexterity ..	13	26	39	52	65
(g) Education ... ..	8	16	24	32	40
(h) Personality or social skill .. ..	5	10	15	20	25
(i) Physical effort ... ..	13	26	39	52	65
(j) Hazard ... ..	18	36	54	72	90
(k) Working conditions ... ..	8	16	24	32	40
	200	400	600	800	1000

(d) The Secretary of the Committee will explain job description and characteristics and guide voting. Efforts will be made to get an agreement of views by free discussion and field inspection if necessary prior to voting. The members of the Committee will determine the demand for each of the elements or factors for the satisfactory performance of the job in terms of degrees given in the above table and give job values as points which will be recorded by the Secretary.

(e) The average points against factors rated by the voting members of the Committee will be totalled and the total compared with the total values of parallel or similar jobs already on the wage schedule. A re-evaluation if necessary will be made to fit the job in the proper grade consistent with justice and equity.

(f) A job will be fitted in the wage schedule on the basis of its final value thus determined and after approval by the Management.

27. If at any time a job is degraded as a result of re-evaluation, a worker on the job will continue to receive his current pay but the excess over the maximum pay in his grade will be treated as his personal pay. As he is promoted to higher grade jobs this personal pay will be gradually absorbed in the basic pay. His successor will not get the personal pay but only the wage rate for the job as fixed after revision.

#### ARTICLE VI—PRODUCTION STANDARDS AND STANDARD ALLOWANCE.

28. Standard rates of production and labour strength at different operation centres, determined by work study done by Joint Standards Committee and in force to-day, as given in the Annexure II to this Agreement are agreed to and adopted as final. Any change in standard rates of production or in labour strength at any operation centre if at any time considered necessary due to a major change in working conditions, process, product or method will only be made as a result of further work study.

29. For steady performance at standard rates of production at all machine centres giving an Overall Plant Efficiency of 100% and Overall Recovery of 55% the Company will pay a Standard Allowance to all employees at rates given below:

Productive Labour—30% of month's total earnings comprising of earnings as defined in Section 4(e) of Article III, acting allowance, holiday pay and annual leave pay.

Non-Productive Labour—15% of month's total earnings comprising of earnings as defined in Section 4(e) of Article III, acting allowance, holiday pay and annual leave pay.

Productive Staff—15% of month's total earnings comprising of earnings as defined in Section 4(e) of Article III, acting allowance, holiday pay and annual leave pay.

Non-Productive Staff—10% of month's total earnings comprising of earnings as defined in Section 4(e) of Article III, acting allowance, holiday pay and annual leave pay.

Workers belonging to the following categories, though non-productive, will be paid Standard Allowance at the rate of 20% of month's total earnings:

- (i) Millwright, Diesetter, Electrician, Sampler and Tester working in shift;
- (ii) their helpers working in shift.

30. If for any reason beyond the control of the Company or the employees it becomes necessary to drop output below the normal level, this will be done by making adequate reduction in machine shifts and labour strength or, if mutually agreed to, working days without affecting standard production rates, recovery and standard allowance or altering in any other way normal working conditions or terms of employment.

31. Standard rates of production and labour strength for any new machine if and when installed or for any new operation if and when introduced will be fixed by work study.

32. No job will be taken up for study until the operation is standardised and the work speed and working conditions are certified as satisfactory by the Department Head or his representative.

33. The duration of the study will be determined by the Joint Standards Committee under the advice of the Methods Department.

34. The standard rate of work shall be fixed at 75% of the maximum machine capacity as attainable with maximum worker effort under ideal conditions; in other words, scope to work with 33½% extra efficiency will exist under best conditions.

35. The data collected by study in the field will be recorded and analysed to determine the standard rates of work. The Standards Committee's recommendations will be forwarded to the Management for approval.

36. Once the standard rates have been agreed to and approved, these shall remain in force for all times subject to review and revision as warranted by a subsequent major change in working conditions, product, process or method.

37. On request from the Management or the Union, need for review or revision of a standard will first be discussed and determined in a meeting of the Joint Production Committee. On Joint Production Committee's recommendation to the Works Manager, Methods Department or Joint Standards Committee will be asked to re-study the work and recommend a revision if justified. On approval by the Management, the new standard will replace the old. Till such time as this is done the previously determined standard shall remain in force.

#### ARTICLE VII—BONUS.

38. The payment of bonus on Company's earnings or profits is not considered a sound or satisfactory principle by either party. It is felt by both the parties that relating

bonus to production which is directly linked up with workers' effort is a better and more satisfactory principle. In consideration of the above it is agreed that bonus will not be related to Company's profits or earnings but will only be related to and paid on plant efficiency and output. Accordingly two bonus schemes which will run concurrently have been agreed to and accepted by both the parties. The Schemes are:

(a) Monthly Production Bonus Scheme. This is based on month's Overall Plant Efficiency and Recovery and is described in detail in Section 39 of this Article.

(b) Annual Productivity Bonus Scheme. This is based on total Bonus Year's output and is described in detail in Section 41 of this Article.

39. *Monthly Production Bonus.*

(a) For performance at efficiency above standard, calculated as "Overall Plant Efficiency" at 55% Overall Recovery for the month, the Company will pay monthly production bonus to productive workers at the following rates:—

For first 10% of extra efficiency above standard—1½% on total earnings comprising of earnings as defined in Section 4(e) of Article III and acting allowance, for each 1% extra efficiency.

For efficiency above this upto 15% extra efficiency—2% on total earnings for each 1% extra efficiency.

For efficiency above 15% upto 25% extra efficiency—2½% on total earnings for each 1% extra efficiency.

(b) Non-productive workers and productive staff will be paid at half rates and non-productive staff at quarter rates of bonus percentage paid to productive workers.

Workers belonging to the following categories, though non-productive, will be paid at two-third rates of bonus percentage paid to productive workers:

(i) Millwright, Diesetter, Electrician, Sampler and Tester working in shift;

(ii) their Helpers working in shift.

(c) Bonus earnings will vary with overall recovery, the actual bonus earnings for a month being the product of bonus earned at standard 55% recovery as per Sub-section (a) and (b) of this Section and recovery factor corresponding to the month's overall recovery as specified below:

<i>Overall Recovery</i>	<i>Recovery Factor</i>
50% ± 2.50%	0.9
55% ± 2.50%	1.0
60% ± 2.50%	1.1
65% ± 2.50%	1.2

40. All employees other than casual workers as defined in the Standing Orders and substitute staff members will be entitled to Monthly Production Bonus.

41. *Annual Productivity Bonus.*

(a) In addition to the Monthly Production Bonus the Company will pay Annual Productivity Bonus on total Output of the Bonus Year to its employees. The Annual Productivity Bonus payable will be determined from the graph in page number 38. This graph is a straight line graph with co-ordinates 'Total Bonus Year's Output' in tons and 'Annual Bonus' in percentage of Total Bonus Year's Earnings (comprising of earnings as defined in Section 4(e) of Article III, acting allowance and annual leave pay) and is formed by joining two fixed points, namely Bonus of 8.33% at output of 6000 tons and Bonus of 16.67% at output of 9000 tons and extending this line a point corresponding to 5000 tons output on the left and to a point corresponding to 10000 tons output on the right, these points limiting the minimum and maximum levels of output during any Bonus Year on which Annual Productivity Bonus will be paid during the term of this Agreement.

(b) Annual Bonus will be paid to each employee, entitled to this, on his total Bonus Year's earnings at rate determined by the point in the graph corresponding to the total output during the Bonus Year.

(c) It is agreed that if in any Bonus Year the total output drops below the desired level but not below a minimum level of 6000 tons for reasons beyond the control of the employees and the Union and in spite of their best efforts and full co-operation the Company will guarantee payment of Annual Bonus to all employees entitled to this @ 8½% of their total earnings during the year.

42. All employees other than casual workers as defined in the Standing Orders and substitute staff members and those who, having resigned or being discharged from the

services of the Company, cease to be on the pay roll of Belur Works at the time of completion of the Bonus Year, will be entitled to Annual Productivity Bonus.

43. *Shutdown of Plant due to Fire, Damage to Plant, etc.*

It is agreed that the Company may at any time or times in the event of fire, breakdown of or damage to machinery, shortage of raw materials, shortage of orders, strike, lockout, Government control, action or regulation, force majeure, such as war, riot, civil commotion, communal disturbance, epidemic or other causes or circumstances beyond the control of the Company or the employees, stop any machine or machines, department or departments, wholly or partially for any period or periods and the bonus scheme will stand automatically suspended and inoperative from such date notified by the Company till those causes or circumstances are removed and normal operation is restored.

It is also agreed that on such notification by the Company, the Company may send all or any employee on leave with pay for the period due to each employee and without pay for the remaining portion of the shutdown period, or the Company may arrange disposal of employees on involuntary unemployment basis under the prevailing Acts, Rules or adjudication award, whichever is applicable at the time, if the stoppage is for reasons other than strike or lock-out. Bonus will be paid proportionately to output and working days.

44. *Bonus Payment.*

It is agreed that the Company will under all normal circumstances pay the monthly production bonus within fourteen days of the close of each month and the Annual Productivity Bonus in the month of September each year.

45. It is agreed that no bonus in any other form or on any other basis will be paid during the term of this Agreement.

ARTICLE VIII—OTHER BENEFITS.

46. *Canteen Benefits.*

The Company will continue to supply to all employees cooked meal at the scheduled time within duty hours at a subsidised rate of five annas per meal, the subsidy being three and half annas per meal. Tea will be supplied, as at present, at a subsidised rate of nine pies per cup. The Company will also continue to supply daily one cup of tea free to each employee on working days while on duty. Snacks, cigarettes and other canteen items will continue to be sold at cost price.

47. *Grain Store Benefits.*

The Company will, under all normal circumstances, continue to supply, unless otherwise mutually agreed to, cereals, sugar and dal to employees and their dependents (wife, children and dependent parents) at subsidised rates from the Company's grain store. The present rates of subsidies for quantities fixed per head per week on different items as given below will continue:

Rice—Rs. -/1/- per seer.

Wheat—Rs. -/-/9 per seer.

Sugar and Dal will continue to be sold @ Rs. -/10/- and Rs. -/6/- per seer respectively irrespective of their cost prices.

Dal will continue to be supplied only against employees' cards and not against their dependents' cards.

48. *Lunch Allowance.*

Unless otherwise covered by terms of employment, the Company will continue to pay a Lunch Allowance of Rs. 1/8/- to all employees who will be on outside duty during lunch period and will thus not be able to take meal at the Works Canteen.

49. *Night Shift Tiffin.*

The Company will supply from its Canteen free tiffin (costing five annas per head per day) to all workers working in the night shift i.e. 10 p.m. to 6 a.m. during their periods of rest which shall be taken between work periods as scheduled.

50. *Sick Benefit.*

In consideration of the financial loss the employees covered by the Employees State Insurance Scheme may suffer for the first two days of sickness which is considered as Waiting Period for which no cash benefit is payable by the Employees' State Insurance Corporation, the Company agrees to pay special sick allowance for these two days at half wage rate to workers and for one day at full pay to staff on submission of a medical certificate from a panel doctor. Such payment will not be made to an employee in case the absence precedes or follows a Sunday or a holiday and in no case on more than three occasions in a calendar year.

ARTICLE IX—RETIRING BENEFITS.

*Provident Fund.*

51. The Company will continue to run the contributory Provident Fund Scheme in existence and each employee will be a member of the fund after six months' continuous service with the Company or from the date of his joining the Company if he is already a member of any Employees' Provident Fund constituted under the Employees' Provident Fund Act, 1952. The employee will contribute 6½% of his earnings and the Company will contribute an equal amount. Details of the Scheme are embodied in the Company's Provident Fund Rules.

*Gratuity.*

52. The Company agrees to introduce a Gratuity Scheme for the employees from January 1st, 1957, as a further retiral benefit to the existing Provident Fund.

53. Rules and regulations governing the scheme will be published in due course. The main features of the scheme will be as follows:

(1) A permanent employee leaving the Company's service on or after January 1st, 1957, will be eligible to a lump sum payment of half a month's earnings for every completed year of service subject to income tax at the retirement age of fifty-five, if he had been in the continuous service since his last engagement for a minimum period of:

(a) five years in the case of—

(i) death while in service

(ii) permanent physical and/or mental disability while in service

(iii) persons who were over forty years of age at the start of continuous service and compulsorily retired at the age of 55.

(b) 15 years in all other cases.

(2) Average earnings for the purpose of the scheme will be the average earnings of an employee during the twelve calendar months immediately preceding the date of retirement.

(3) The scheme will not be applicable to apprentices, trainees and persons employed through contractors.

(4) No gratuity will be paid in case an employee is dismissed for misconduct.

ARTICLE X—LEAVE AND HOLIDAYS

54. Leave and holiday benefits as fixed by Award or legislation and as are in force to-day will continue to be applicable during the term of this Agreement. They are briefly as follows:

(a) *Leave.*

Privilege Leave for employees in staff roll—21 days in a year, cumulative up to 63 days.

Annual Leave for workers—1 day for every 20 days of work (as per Factory Act).

Casual Leave for staff—7 days on full pay in a year.

Casual Leave for workers—15 days without pay in a year.

Other Leave for workers—5 or 6 days other leave which is equivalent to 4 working days in terms of the Major Engineering Tribunal Award of 1948.

Sick Leave for those covered by E. S. I. Scheme—56 days on half pay (non-cumulative) in a year as per E. S. I. Rules.

Sick Leave for those not covered by E. S. I. Scheme—7½ days in a year on full pay, cumulative year to year.

(b) *Holidays.*

10 days in a year as per Major Engineering Tribunal Award of 1948.

55. The conditions to be fulfilled by an employee before he will be entitled to festival holidays with pay is that he must attend to his work on the day preceding and the day succeeding the particular festival holiday unless absence from work can be established to be for good reasons to the satisfaction of the Company.

56. (a) The extra 6 or 5 days other leave sanctioned by the Award to the employees governed by the Factories Act, 1948, which is equivalent to 4 working days leave, will be given in a manner so that all the employees can enjoy these collectively on a few specified days.

(b) Wages for these days will be paid to all permanent employees who have completed a period of twelve months continuous service in the factory and are entitled to the statutory holidays in terms of Section 79 of the Factories Act, 1948. Other categories of workers including temporary, probationer or permanent workers not fulfilling the above conditions will not be entitled to any wage for these days.

(c) For monthly-paid salaried employees, for whom these will be paid holidays, 4 days will be deducted from the 7 days casual leave due to them.



## ARTICLE XI—JOINT CONSULTATION.

57. It is agreed by both the parties that solution of problems and settlement of disputes and grievances can be best achieved by joint consultation which also contributes towards better understanding and relations. In consideration of the above and in view of the experience of the working of Joint Committees in the past, five Joint Committees, viz. Joint Personnel Relations Committee, Joint Production Committee, Joint Job Evaluation Committee, Joint Standards Committee and Joint Canteen Committee, established under the first Agreement between the Company and the Union are hereby re-established for the term of this Agreement. It is agreed that any other Joint Committee or Committees will be established if and when considered necessary.

58. Composition and functions of these different committees are given below:

(a) *Joint Personnel Relations Committee* comprises of equal number of members nominated by the Company and the Union.

The function of this Committee is to contribute towards maintenance of good personnel relations by aiding settlement of grievances in accordance with the provisions of the Grievance Procedure.

(b) *Joint Production Committee* comprises of equal number of members nominated by the Company and the Union.

The function of this Committee is to aid improvement in quality, output, efficiency and production methods and solution of production problems in general.

(c) *Joint Job Evaluation Committee* comprises of equal number of members nominated by the Company and the Union excluding the Personnel Superintendent who will act as non-voting Secretary to the Committee.

The function of this Committee is to evaluate jobs for fitting into the Wage Schedule.

(d) *Joint Standards Committee* comprises of competent representatives nominated by the Company and the Union.

The function of this Committee is to make work study, recommend standard rate of performance and labour strength and help attainment of these standards where necessary.

(e) *Joint Canteen Committee* comprises of representatives of the Company and the Union.

The function of this Committee is to discuss and recommend measures to improve canteen efficiency and service.

59. All Joint Committees are consultative and advisory in character and have no executive authority.

60. No one shall be eligible to serve as a member of any Joint Committee unless he is in Company's employment at Belur Works.

61. Joint Committee members will be entitled to leave their work without loss of pay, after obtaining permission from their departmental head, to attend meetings or to make field study. It is agreed that the time will be devoted for Committee's work only and will not be abused in any way.

## ARTICLE XII—REDRESS OF GRIEVANCES.

62. It is agreed that Grievances will be settled expeditiously at the lowest level and only when this is not possible will this be handled and settled at higher levels.

63. For this purpose the Union will nominate 'Shop Stewards' from amongst the workers in different sections and shifts to represent workmen's grievances according to the Grievance Procedure and forward a list of names of Shop Stewards so nominated to the Management and intimate changes as and when they take place.

64. Grievances will be handled in accordance with the Grievance Procedure laid down below:

(1) The worker in person will first take up his grievance with his Supervisor.

(2) If the worker is not satisfied with the decision of the Supervisor or fails to receive an answer from him within 24 hours (one working day), he will take the grievance to the Foreman.

(3) If the decision of the Foreman is not satisfactory or an answer is not received from him within 24 hours (one working day), the worker accompanied by his Shop Steward will present his grievance to the Department Superintendent. Up to this point the communication will be verbal.

(4) If the decision of the Superintendent is not satisfactory or if no reply is received from him within 48 hours (2 working days), a Grievance Note will be filled up by the worker or his Shop Steward and forwarded to the Personnel Superintendent.

(5) The Personnel Superintendent, on receipt of the Grievance Note, will make necessary entries in the Grievance Register. He will then forward the Grievance Note to the Department Superintendent concerned for his comments.

(6) The Department Superintendent will return the Grievance Note to Personnel Superintendent with his comments.

(7) The Personnel Superintendent, on receipt of the Grievance Note, will be in a position to settle the grievance fairly and satisfactorily on basis of the facts obtained, supplemented by discussions with persons involved and personal investigation if necessary. If the grievance is found to be genuine, the Personnel Superintendent will take steps to have this redressed. If, however, the grievance is found to be false and malicious, he will take disciplinary action against the complainant.

(8) In case the Personnel Superintendent is not in a position to settle the case satisfactorily, he will refer it to the Joint Personnel Relations Committee. Before doing that he will consult the Personnel Data of the complainant and make necessary entries in the Grievance Note.

(9) The Joint Personnel Relations Committee, on receipt of the Grievance Note, will make a careful and objective study of the case and make its recommendations to the Personnel Superintendent.

(10) The Personnel Superintendent will then take steps to settle the case or, if necessary, forward it to the Works Manager.

(11) The Works Manager, on reviewing the case, will issue instructions in writing and return the Grievance Note to the Personnel Superintendent.

(12) The Personnel Superintendent will implement the instructions of the Works Manager and will inform in writing the complainant or his Shop Steward with copies to persons concerned about the final decision of the Management.

(13) If the decision of the Works Manager is not considered satisfactory, or if no reply is received from the Management within 15 working days from the date of submission of the Grievance Note, the employee or the Union has a right to refer the case to State Labour Directorate, as provided by the existing legislation, or to take such other constitutional action as the employee or the Union thinks fit.

65. Steps 1, 2, 3 and 4 will be taken up by the complainant or his Shop Steward during his scheduled period of rest. If it is necessary for the workman to leave the department during working hours on a call from the Personnel Superintendent or any other Officer or the Joint Personnel Relations Committee, previous permission of Foreman or Superintendent of the department must be obtained.

66. The Management will see that all grievances are considered carefully and processed promptly in accordance with the procedure described above.

67. The Union will see that only genuine grievances are brought by workers to the notice of the Management and that unnecessary waste of time is avoided in handling grievances which are purely imaginary. A false complaint lodged with the purpose of undermining the prestige of a superior Officer or stirring up agitation will affect the interest of the complainant adversely and in case the complaint is malicious, disciplinary action will be taken against the complainant. It is understood that the grievance machinery is not meant to supplement the Union's bargaining activities for which a separate course of action is prescribed.

#### ARTICLE XIII—GENERAL.

68. It is agreed that when any machine or man or group of men is idle due to lack of work, mechanical breakdown or any other cause or causes or when it is deemed necessary to stop any kind of work and do some other kind of work the workers will be transferred from one job to another or from one section to another, as directed by the Supervisory Staff.

69. It is agreed that in order to maintain production at a uniformly high level and to prevent breakdown of machines and consequent stoppages of work the procedure for preventive maintenance programme as laid down by the Engineering Department will be rigidly followed by the workmen concerned and that they will be present on duty as and when called upon to do so in order that production or life of machines is not adversely affected.

70. It is agreed that bottlenecks existing anywhere will be cleared off by extra effort and/or extra work on Sundays and holidays so as to maintain an even flow of material through the plant and that Remelt and/or Hot Mill will work on Sundays and/or Holidays

as required for meeting sheet mill demand or for building up adequate stock of rolling ingots or hot rolled slabs prior to remelt furnace or hot mill shutdown.

71. It is agreed that the present practice of recruiting workers of Grade I, other than those hired for casual purpose or for expansion work, from amongst employees' relatives and refugees in proportion 3:1 and of higher categories in non-productive group by free recruitment from any available source and in productive group by promotion from within, as far as practicable, will be continued without any change.

72. It is agreed that promotion of workers will be governed by consideration of merit, service record and seniority. The same consideration will also apply in the case of lay off or retrenchment of skilled workers or temporary or casual workers. In case any action taken in this connection is considered as a cause of grievance, redress can be sought for through the Grievance Procedure.

73. It is agreed that for lay off or retrenchment of permanent workers belonging to unskilled or semi-skilled category for any reason beyond the control of the Company or the employees, workers belonging to the particular department or section or category where there is redundancy will be retrenched on 'last come first go' basis, unless otherwise agreed to mutually.

74. Since this Agreement provides for the orderly and amicable settlement and adjustment of any and all disputes, differences and grievances, it is agreed that the Union will not initiate, authorise, sanction, support or engage in any strike, stoppage or slow-down of work and that the Company will not declare lock-out during the term of this Agreement. A case of any unauthorised strike, slow-down or stoppage by any employee or employees will not be supported by the Union and the offender(s) will be liable to strong disciplinary action which may amount to summary dismissal.

75. It is agreed that there shall be no demand for any further increase in wage, allowance or bonus or any other financial or non-financial benefit and that the provisions of this Agreement fully define and limit the obligations and responsibilities of the Management towards its employees for the period covered by this Agreement.

#### ARTICLE XIV—TERMINATION.

76. This Agreement terminates and supersedes the Agreement of March 14th, 1951.

77. This Agreement shall continue in full force and effect without any change for a period of five years from the first day of September Nineteen Hundred and Fifty-six to the Thirty-first day of August Nineteen Hundred and Sixty-one and shall continue in effect thereafter until amended by mutual agreement or terminated by either party by written notice of at least one calendar month to the other party.

78. In the event that any of the provisions of this Agreement becomes legally invalid or unenforceable or superseded by a subsequent Act, Award or Order, such invalidity, unenforceability or supersession shall not affect the remainder of the provisions of the Agreement.

IN WITNESS WHEREOF the parties hereto have caused their names to be subscribed by their duly authorised Officers and representatives the day and year first above written.

Indian Aluminium Belur Works Employees' Union

RAMANUJ SINGH

D. P. SARKAR

*Joint Secretaries.*

Indian Aluminium Company, Ltd., Belur Works

A. DAS GUPTA,

*Works Manager.*

#### Witnesses:

S. C. BHATTACHARJEE

B. C. ROSE

S. S. DUTT

S. K. SARKAR

S. B. BOSE

A. K. SINHA

P. N. KRISHNA PILLAI.

## MODEL CONSTITUTION FOR UNIT PRODUCTION COMMITTEE<sup>1</sup>

1. **Name.**—The Committee shall be known as “(Name of the Undertaking or Factory) Production Committee” (hereinafter referred to as “the Committee”).

2. **Object.**—The object is to establish for (the Name of the Undertaking or Factory) a consultative and advisory committee for the regular exchange of views between the management and the workers on matters relating to the improvement of production, to increase efficiency for this purpose, and to make recommendations thereon.

3. **Functions.**—(i) The functions of the Committee shall be to consult and advise on matters relating to production problems in so far as they pertain to specific problems of production in which labour has a direct interest.

(ii) In particular, the functions of the committee shall include the following, namely:—

(a) Better upkeep and care of machinery, tools, instruments, etc.;

(b) Efficient use of the maximum number of production hours;

(c) Elimination of defective work and waste;

(d) Efficient use of safety precautions and devices.

4. **Limitations of functions.**—The committee shall not be concerned with the problems of planning, development and production in their wide sense, and functions which are purely managerial. The committee shall not also discuss matters which are trade questions or which are normally taken up by trade unions, such as wages, allowances, hours of work, leave, old age benefits and the like subjects, or which are covered by agreements with the Trade Unions or by reports of Conciliation Boards or awards of Industrial Tribunals or courts or questions which are normally dealt with by the approved machinery of negotiations.

5. **Works Committee to function as Production Committee.**—Ordinarily the Works Committee if any, in an establishment with such co-opted members as it may consider necessary, shall function as the Production Committee but separate records and minutes of meetings shall be kept in respect of such activities. It shall be open to the Works Committee, if it so desires, to elect a few members of the Committee including all the office-bearers to constitute the Production Committee and also to nominate to it persons of special knowledge provided that the persons so nominated shall not have the right to vote.

6. **Independent Production Committee and its composition.**—This Rule shall apply only to Production Committees in establishments which have no Works Committees or in which though there are Works Committees, it has been decided for special reasons that they should not function as Production Committees.

(a) The Committee shall be as small as possible subject to effective representation to important branches, sections, shops and departments of the undertaking or factory but shall not in any case exceed 10.

(b) The number of the representatives of Workers shall not be less than the number of representatives of the Management.

(c) The representatives of the management or the Workers shall have the right to co-opt persons in a consultative capacity, having particular knowledge of a matter under discussion and such co-opted persons shall be present for the period only during which the particular question is before the Committee. The co-opted members shall have a right to speak but shall not be entitled to vote.

(d) In the event of a Worker's representative on the Committee ceasing to be employed in the Establishment or being transferred to another shop or department or retiring or ceasing to be a paying member of the appropriate trade union, a successor shall be elected in his place, who shall hold office for the remainder of the current term of the Committee.

(e) The Management shall nominate their own representatives.

<sup>1</sup> The Resolution on Industrial Truce adopted at the Industries Conference held at Delhi in December 1947 recommended, *inter alia*, the formation of Unit Production Committees in industrial establishments for promoting the efficiency of workers and improving production. Under the Industrial Policy Resolution of 6th April, 1948, the Central Government proposed the setting up of bipartite Production Committees consisting of representatives of employers and workers. The matter was discussed at the first meeting of the Central Advisory Committee on Labour held at Lucknow in November 1948 and on the basis of its recommendation, a modified draft model constitution was prepared by the Central Government and circulated to the different employers' associations with a request to take all possible steps to enable the existing Works Committees to function also as Production Committees and also to constitute Unit Production Committees, on a voluntary basis.

(f) **Workers' Representatives.**—Representatives of the Workers shall be elected from amongst the workers employed in the undertaking or factory and shall cover as far as possible the different sections, branches, shops or departments of the undertaking or factory.

(g) All workers, male or female, of not less than 19 years of age, who have served for a period of not less than 12 months in the undertaking or factory at the date on which the election takes place shall be eligible for election, provided that if there is a registered trade union of the workers of the undertaking or factory which has accepted the principles enunciated in the Industrial Truce Resolution passed by the Industries Conference on December 17, 1947, the workers' representatives must produce a certificate from the same union that he is a paying member of the union for a period of not less than 6 months prior to the date of the election.

(h) All adult workers, male or female employed in the undertaking or factory at the date on which the election takes place shall be eligible to vote in the election.

(i) The representatives of the workers shall hold office for one year subject to the continued paying membership of the appropriate trade union and shall be eligible for re-election.

(j) The officers of the Committee shall be:—(i) a Chairman; (ii) a Vice-Chairman; (iii) a Secretary; and (iv) a Joint Secretary.

(k) (i) The Chairman of the Committee shall be appointed by the Management.

(ii) The Vice-Chairman shall be elected by the Committee from amongst the representatives of the Workers.

(l) The Management shall appoint the Secretary from amongst the members of the Committee representing the Management.

(m) Joint Secretary of the Committee shall be elected by the Committee from amongst the Workers' representatives on the Committee.

7. **Functions of Officers.**—(i) The Chairman shall preside at all meetings of the Committee and shall have general control and supervision over the work of the Committee.

(2) In the absence of the Chairman the functions of the Chairman shall be performed by the Vice-Chairman.

(3) The Secretary of the Committee shall keep the records of the Committee and minutes of the meetings. He shall be principal executive Officer of the Committee.

(4) The Joint Secretary shall assist the Secretary in the discharge of the functions and duties of the Secretary and shall do such work as may be assigned to him by the Chairman or the Secretary. In the absence of the Secretary, the Joint Secretary shall perform the functions and duties of the Secretary.

8. **Meetings of the Committee.**—(i) Meetings of the Committee shall be held ordinarily once a month. Additional or special meetings may be held when necessary as decided by the Chairman or at the request of not less than half of the representatives of the workers on the Committee. (ii) Meetings of the Committee shall normally be held during the working hours of the undertaking or factory.

9. **Quorum.**—The quorum necessary for the meeting of the committee shall be not less than the number of representatives of each of the Management and Workers.

10. **Accommodation and other facilities for the meetings.**—The accommodation for holding meetings of the committee and all other facilities and things necessary for the functioning of the committee will be provided by the management.

11. **Payment of the Attendances.**—The members of the workers side of the committee shall be considered to be on duty for the period of attendance at meetings of the committee or while doing any other work for, and on behalf of the committee and shall be paid the usual wages and allowances for such period.

12. **Notice of the Meeting.**—Notice of the meeting of the Committee with the agenda therefor shall be given to the members 3 days before the date fixed for the meeting; provided that in case of urgency or emergency such notice as is practical may be sufficient.

13. **Agenda for Meeting.**—The Agenda shall be prepared by the Secretary in consultation with the Joint Secretary and when approved by the Chairman shall be circulated amongst the members.

14. **Business to be transacted at the Meetings.**—The Business of the meeting shall ordinarily be confined to the items on the agenda. Any other subject may be considered and discussed by the committee only with the permission of the Chairman or with the consent of the majority of the members present at the meeting.

15. **Procedure for bringing question on the agenda for the Meeting.**—When an individual worker desires to bring in any question before the Committee he or she should report to his or her representative of department, branch, shop or section as the case may be. Such representative shall, if he is satisfied about the desirability of bringing the question before the committee, forward it to the Secretary.

16. **Minutes.**—The Secretary of the Committee shall prepare the minutes of the proceedings of the meetings of the committee which shall be approved and signed by the Chairman at the same meeting or at the next meeting.

17. **Sub-Committees.**—The Committee shall have power to appoint Sub-Committees to deal with any particular question. The Secretary and the Joint Secretary shall function in connection with the work of any Sub-Committee and prepare a report or minutes of the proceedings of such Sub-Committee for submission to the Committee.

18. **Officers of registered trade union.**—The President, Vice-President, Secretary of a trade union of the Workers of the undertaking or factory as is referred to in Rule 8 may attend any meeting of the Committee in an advisory capacity. He will not have right to vote at the meeting.

## MODEL CONSTITUTION AND FUNCTIONS OF A JOINT INDUSTRIAL COUNCIL<sup>1</sup>

### (A) FUNCTIONS OF A JOINT INDUSTRIAL COUNCIL.

1. To secure the largest possible measure of joint action between employers and work-people for the development of the industry as a part of national life and for the improvement of the conditions of all engaged in that industry.

It will be open to the Council to take any action that falls within the scope of this general definition. Among its more specific objects will be the following:

*NOTE.—No hard and fast policy is suggested as to what should constitute the functions of an Industrial Council. This is a question which the employers and workpeople in each industry must settle for themselves.*

2. Regular consideration of wages, hours and working conditions in the industry as a whole.

3. The consideration of measures for regularising production and employment.

4. The consideration of the existing machinery for the settlement of differences between different parties and sections in the industry, and the establishment of machinery for this purpose where it does not already exist, with the object of securing the speedy settlement of difficulties.

5. The collection of statistics and information on matters appertaining to the industry.

6. The encouragement of the study of processes and design and of research, with a view to perfecting the products of the industry.

7. The provision of facilities for the full consideration and utilisation of inventions and any improvement in machinery or method, and for the adequate safeguarding of the rights of the designers of such improvements, and to secure that such improvement in method or invention shall give to each party an equitable share of the benefits financially or otherwise arising therefrom.

8. Inquiries into special problems of the industry, including the comparative study of the organisation and methods of the industry in this and other countries, and where desirable the publication of reports.

9. The improvement of the health conditions obtaining in the industry, and the provision of special treatment where necessary for workers in the industry.

<sup>1</sup> Model Constitution and Functions of a Joint Industrial Council, Suggested Constitution and Functions of Works Committees and Constitution of Joint Production Consultative and Advisory Committee in the Engineering Industry, were reproduced from H. M. Stationery Office, London, official publication *Industrial Relations Handbook*, 1944 compiled by the Ministry of Labour and National Service, United Kingdom (Appendix I and II and Supplement No. 3) through the kind permission of Hon'ble Sir Walter Monckton, Minister of Labour and National Service, United Kingdom in 1952 and the Controller of H. M. Stationery Office, London.

10. The supervision of entry into and training for the industry, and co-operation with the educational authorities in arranging education in all its branches for the industry.

11. The issue to the Press of authoritative statements upon matters affecting the industry of general interest to the community.

12. Representation of the needs and opinions of the industry to the Government, Government Departments and other authorities.

13. The consideration of any other matters that may be referred to it by the Government or any Government Department.

14. The consideration of the proposals for District Councils and Works Committees put forward in the Whitley Report, having regard in each case to any such organisations as may already be in existence.

*NOTE.—The following have also been included among the functions in some of the provisional constitutions which have been brought to the notice of the Ministry of Labour:—*

(i) The consideration of measures for securing the inclusion of all employers and work-people in their respective associations.

(ii) The arrangement of lectures and the holding of conferences on subjects of general interest to the industry.

(iii) Co-operation with the Joint Industrial Councils for other industries to deal with problems of common interest.

#### (B) THE CONSTITUTION OF A JOINT INDUSTRIAL COUNCIL.

##### 1. *Membership.*

The Council shall consist of \_\_\_\_\_ members, appointed as to one half by Associations of Employers and as to the other half by Trade Unions.

Associations of Employers.

No. of Representatives.

(1)  
(2)  
(3)  
&c.

Total ... ..

Trade Unions.

(1)  
(2)  
(3)  
&c.

Total ... ..

##### 2. *Reappointment.*

The representatives of the said Associations and Unions shall retire annually, and shall be eligible for reappointment by their respective Associations and Unions. Casual vacancies should be filled by the Association concerned, which shall appoint a member to sit until the end of the current year.

##### 3. *Committees.*

The Council may delegate special powers to any Committee it appoints.

The Council shall appoint an Executive Committee and may appoint such other Standing or Sectional Committee as may be necessary. It shall also have the power to appoint other Committees for special purposes. The Reports of all Committees shall be submitted to the Council for confirmation, except where special powers have been delegated to a Committee.

##### 4. *Co-opted Members.*

The Council shall have the power of appointing on Committees or allowing Committees to co-opt such persons of special knowledge not being members of the Council as may serve the special purposes of the Council, provided that so far as the Executive Committee is concerned—

(a) the two sides of the Council shall be equally represented, and

(b) any appointed or co-opted member shall serve only in a consultative capacity.

*N.B.—It is desirable to take power to appoint representatives of scientific, technical and commercial Associations upon Committees and Sub-Committees of the Council, and the above clause would give this power.*

#### 5. Officers.

The officers shall consist of a Chairman or Chairmen, a Vice-Chairman, a Treasurer and a Secretary or Secretaries.

##### (1) The Chairmen.

*N.B.—The Whitley Report suggests that the appointment of a Chairman or Chairmen should be left to the Council, who may decide that there should be—*

(i) a Chairman for each side of the Council,

(ii) a Chairman and Vice-Chairman selected from the members of the Council (one from each side of the Council),

(iii) a Chairman chosen by the Council from independent persons outside the industry, or

(iv) a Chairman nominated by such persons or authority as the Council may determine, or failing agreement, by the Government.

##### (2) Secretary.

The Council shall be empowered to maintain a Secretary or Secretaries and such clerical staff as it may think fit.

All honorary officers shall be elected by the Council for a term of one year.

#### 6. Meetings of the Council.

The ordinary meetings of the Council shall be held as often as necessary and not less than once a quarter. The meeting in the month of \_\_\_\_\_ shall be the annual meeting. A special meeting of the Council shall be called within \_\_\_\_\_ days of the receipt of a requisition from any of the constituent Associations or from the Executive Committee. The matters to be discussed at such meetings shall be stated upon the notice summoning the meeting.

#### 7. Voting.

The voting both in Council and in Committees shall be by show of hands or otherwise as the Council may determine. No resolution shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Council.

#### 8. Quorum.

The quorum shall be \_\_\_\_\_ members on each side of the Council.

#### 9. Finance.

The expenses of the Council shall be met by the Associations and Trade Unions represented.

## SUGGESTED CONSTITUTION AND FUNCTIONS OF WORKS COMMITTEE<sup>1</sup>

*The differing circumstances of different industries make it impossible to devise any scheme suitable to every industry. Again, the type of Works Committee suitable will vary with the size of the firm and the form taken by organisation among the employees. In preparing a scheme, therefore, the machinery outlined in the following suggestions may require to be adapted in greater or lesser degree if the general objects for which Works Committees are recommended are to be attained. At the same time, anything that is done—whether or not it is embodied in the Works Rules drawn up by the Works Committee—must be consistent with the principles of the collective agreements accepted by the District and National Authorities. For this reason steps should be taken to secure the*

<sup>1</sup> Suggestions prepared in 1920 by the Ministry of Labour as to the Constitution and Functions of Works Committees in Industries in which National Joint Industrial Councils are established. The conception of Works Committees have been supplemented by the development of Joint Consultation.



closest possible connection between the Works Committee and the District and National Councils.

#### OBJECTS.

1. The object of the Works Committee is to provide a recognised means of consultation between the management and the employees, and

(i) to give the employees a wider interest in and greater responsibility for the conditions under which their work is performed.

(ii) to enforce the regulations contained in collective agreements drawn up by District and National Authorities,

(iii) to prevent friction and misunderstanding.

#### FUNCTIONS.

2. Matters to be dealt with by the Works Committee shall include:—

*(This list of functions is not meant to be exhaustive. Almost every industry has rules or customs which arise from the particular conditions under which the work of the industry is carried on (e.g., the payment of "dirty money," provision of tools, allowances for working away from the works or from home, allowances on standard district piece prices for deficiencies in material or machinery, &c.). In a well-regulated industry many such matters will be subject to district or national agreements, and the powers of a Works Committee will be limited in the same manner as they will be in regard to the more general questions of district or national agreement (standard rates, piece prices, normal hours, overtime, &c.). No attempt has been made to include such questions as arise only in some industries, for which each National Council concerned will have to decide upon a method of regulation, including the powers to be vested in Works Committees.)*

(a) The issue and revision of works rules.

(b) The distribution of working hours; breaks; time recording, &c.

(c) The method of payment of wages (time, form of pay ticket, &c.); explanation of methods of payment; the adjustment of piece prices, subject to district or national agreements; records of piece prices; deductions, &c.

(d) The settlement of grievances.

(e) Holiday arrangements.

(f) Questions of physical welfare (provision of meals, drinking water, lavatories and washing accommodation, cloakrooms, ventilation, heating, lighting and sanitation; accidents, safety appliances, first aid, ambulance, &c.).

(g) Questions of discipline and conduct as between management and workpeople (malingering; bullying; time keeping; publicity in regard to rules; supervision of notice boards, &c.).

(h) Terms of engagement of workpeople.

(i) The training of apprentices and young persons.

(j) Technical library; lectures on the technical and social aspects of the industry.

(k) Suggestions of improvements in method and organisation of work; the testing of suggestions.

(l) Investigation of circumstances tending to reduce efficiency or in any way to interfere with the satisfactory working of the factory.

(m) Collections (for clubs, charities, &c.).

(n) Entertainments and sports.

(o) The provision of facilities for the employees' side of the Joint Committee (or of a departmental committee, if any) to conduct its own work.

*(It may be found necessary to leave certain questions to be settled not by the whole Works Committee, but by a sub-committee of it on which the workers' representatives are drawn only from the particular department or section directly concerned, for example, a piecework question in one department of a works which is mainly on timework. The size of the works, also, is a factor which must be taken into account in considering the need for sub-committees. In some instances departmental sub-committees and in others functional sub-committees (e.g., a "Safety" Committee or a Welfare Committee) may best suit the circumstances. Even where definite sub-committees are not arranged for, work of the same kind as these would perform may often be carried out by consultation between the representatives of the management and the secretary of the workers' side, along with the representatives of a department.)*

3. The Works Committee shall not have any power to come to an agreement inconsistent with the powers or decisions of the District or National Councils or with any agreement between a trade union and the employers' association. Further, any agreement come

to by a Works Committee may at any time be superseded by the District or National Council or by agreement between a trade union and the employers' association.

## CONSTITUTION.

4. The Works Committee shall consist of members, of whom the management and shall represent the employees.

(To have an equal number of members on the two sides would in most works be impracticable, and, in view of the suggested procedure, is unnecessary. The number required on the management side will vary, but 2, 3 or 4 is suggested as a suitable number. The number of employees' representatives will vary with the size and complexity of the particular works. Some number from 5 to 12 is suggested as likely to suit most circumstances.)

5. Either side shall have the right to add to its numbers representatives of the particular departments or sections of departments affected by a question under discussion and not directly represented on the Committee. The addition shall be made only for the period during which the question affecting the particular departments or sections of departments is before the Committee.

6. The representatives of the Management on the Committee shall be appointed by the firm.

(Certain members of the managerial staff should form a constant nucleus of the management side. This nucleus should be made up of such individuals as a Managing Director, the Works Manager, and, where there is such an official, the Labour or Welfare Superintendent.)

7. The employees' side of the Works Committee shall be Trade Union members, elected as hereinafter provided.

(The National and District Councils are based solely upon the representation of organisations. In the case of the works, in order to secure cohesion of policy as between the Works Committee and the District and National Councils, it is advisable that the Works Committee should normally be based on a recognition of the workpeople's organisations. But, in particular factories where the employees are not strongly organised, or where the functions of the Works Committee are such as to require the presence of workers who are not organised, it may be found necessary to depart from the principle laid down above. In these circumstances, however, the shop stewards, or other trade union representatives in the works, should be consulted on all questions affecting district or national agreements. Any deviation from the general scheme should be adopted only after approval by the Industrial Council on a consideration of the merits of the case)

8. Employee members shall hold office for a period of 12 months ending on the day of \_\_\_\_\_ in each year. On any representative leaving the employment of the firm or resigning his position as member, a successor shall be appointed in the ordinary way by the department or section concerned, to hold office for the remainder of the term.

## ELECTIONS.

9. Elections of employees' representatives on the Works Committee shall be held in the month of \_\_\_\_\_ in each year.

(Each works should draw up a scheme of constituencies and a method of election to suit its own particular conditions. It is suggested that a provisional committee should be appointed for this purpose. The representation should normally be on the basis of departments, due allowance being made for the various sections of workers engaged in any department. In order that this may not sometimes necessitate a Committee of unwieldy size, it is suggested that for large or complex works the employees' side of the Joint Committee should be appointed by and from a larger body of workers' representatives elected from the various departments. In large works it will probably be found desirable to establish departmental committees, with a Works Committee representative of all the departments chosen from the departmental committees. In such cases, the functions of the departmental committees will be confined to matters affecting the department only, whilst the Works Committee will consider questions affecting more than one department or the whole works. The workers' side of a departmental committee should be so elected as to give representation to each of the various sections of workers engaged in the department.)

10. The election should be by ballot, or by departmental or sectional meetings specially convened for the purpose.

- II. A serving member of the Committee shall be eligible for re-election.

## OFFICERS.

12. The Works Committee shall appoint a Chairman and a Vice-Chairman from the two sides respectively. Each side shall appoint its own Secretary.

## PROCEDURE.

13. Meetings of the Works Committee shall be held at regular intervals of (two/four) weeks. The meetings shall be held during working hours.

14. Special meetings of the Works Committee shall be called at \_\_\_\_\_ hours' notice on a request on behalf of one side by its secretary to the secretary of the other side.

15. The agenda of business shall be submitted by the secretaries to each member of the Committee at least \_\_\_\_\_ hours before a meeting, except in the case of special meetings.

16. No business other than that appearing on the agenda shall be transacted at any meeting unless both sides agree to its introduction.

17. When an individual employee desires to bring any question before the Committee, he or she should report to his or her departmental or sectional representative, who in the case of grievances shall endeavour to reach a settlement. Failing a settlement, the representative shall inform the employees' secretary. The latter shall endeavour to arrange a settlement. Failing a settlement, the question shall come before the Works Committee.

18. In the course of his duties the secretary of the employees' side should have the right to enter any department in the works, and the representative of any department or section the right to enter the department in which the secretary is at work.

19. Facilities should be provided for meetings of the employees' side of the Committee in the works, normally after working hours or during meal hours.

20. The workers' representatives should be paid at their ordinary rate for time spent at meetings of the Works Committee.

21. Duplicate books of minutes should be kept, one by the Secretary of each side.

22. Copies of the minutes of all meetings of the Works Committee must be sent to the Secretaries of the District Council within 7 days of the date of meeting.

23. Decisions shall be arrived at only by agreement between the two sides.

24. The presence of \_\_\_\_\_ members from each side of the Committee shall be necessary to form a quorum.

25. In the event of any matter arising which the Committee cannot agree upon, the officials of the trade union or unions concerned shall negotiate with the firm, or, if desired, with the officials of the employers' association. The question may thereafter be referred by either side to the District Council.

26. The recognised district official of any trade union or employers' association concerned may attend any meeting in an advisory capacity.

ALTHOUGH THE ABOVE SUGGESTIONS HAVE BEEN PREPARED AS A GUIDE IN FRAMING A CONSTITUTION FOR A WORKS COMMITTEE IT IS RECOGNISED THAT THE DETAILS OF SUCH A CONSTITUTION MUST VARY TO MEET THE CONDITIONS AND REQUIREMENTS OF PARTICULAR WORKS. THE ASSISTANCE OF OFFICERS OF THE MINISTRY OF LABOUR WITH EXPERIENCE OF WORKS COMMITTEES IS AVAILABLE IN CONNECTION WITH THE DRAFTING OF CONSTITUTIONS AND THE SETTING UP OF WORKS COMMITTEES.

## CONSTITUTION OF JOINT PRODUCTION CONSULTATIVE AND ADVISORY COMMITTEES<sup>1</sup>

IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:—

### I. NAME.

1. The name of the Committee shall be "The Joint Production Consultative and Advisory Committee" (referred to hereinafter as "The Committee").

### II. OBJECT.

2. The object is to establish in federated establishments consultative and advisory Committees for the regular exchange of views between the Management and the Workers on matters relating to the improvement of production, to increase efficiency for this purpose and to make recommendations thereon.

<sup>1</sup> Memorandum of Agreement between Engineering and Allied Employers' National Federation and the Amalgamated Engineering Union, the National Union of Foundry Workers and the Confederation of Shipbuilding and Engineering Unions.

Where machinery exists satisfactory to the Federation and the Trade Unions, and where it is agreed that such machinery should be used, no further step need be taken.

The provision of a Production Advisory Committee shall not be considered as necessary, except by mutual desire, in establishments employing less than 150 workpeople.

### III. FUNCTIONS.

3. The functions of the Committee shall be to consult and advise on matters relating to production and increased efficiency for this purpose, in order that maximum output may be obtained from the Factory. Illustrative of the questions to be considered and discussed are (a) maximum utilisation of existing machinery; (b) upkeep of fixtures, jigs, tools and gauges; (c) improvement in methods of production; (d) efficient use of the maximum number of productive hours; (e) elimination of defective work and waste; (f) efficient use of material supplies and (g) efficient use of safety precautions and devices.

### IV. LIMITATION OF FUNCTIONS.

4. The Committee shall not discuss matters which are trade questions such as wages, and like subjects, or which are covered by agreements with trade unions or are normally dealt with by the approved machinery of negotiations.

### V. MANAGEMENT REPRESENTATIVES.

5. The Management shall nominate their representatives who shall not exceed the number appointed by the workers.

### VI. WORKERS' REPRESENTATIVES.

6. *Number.*—Representatives of the workers shall be elected by ballot conducted jointly by the Management and the Union representatives in the shops, and shall cover, as far as possible, the various shops, departments, or sections of the factory. The Committee shall be as small as possible subject to effective representation and shall not in any case exceed ten on either side.

#### 7. ELIGIBILITY.

(a) *For membership of the Committee.\**

All adult organised workers with not less than two years' continuous service at the factory concerned shall be eligible for election. In the case of establishments which have been in operation for less than two years, the service qualification may be reduced accordingly.

(b) *To vote in the elections.*

Workpeople's representatives on these Committees shall be elected by ballot as outlined in paragraph 6 and voting is open to all adult workers.

8. *Filling Vacancies.*—In the event of a worker-representative on the Committee ceasing to be employed in the establishment or being transferred to another Shop or Department or retiring, a successor shall be elected by ballot as provided for in paragraph 6.

9. *Power to Co-opt.*—The representatives of the management or of the workpeople shall have the right to co-opt, in a consultative capacity, persons employed in the establishment having a particular knowledge of a matter under discussion. Such co-opted persons shall be present for the period only during which the particular question is before the Committee.

### VII. OFFICERS.

10. *Chairman.*—The Chairman of the Committee shall be appointed by the Management and in the event of his being unable on any occasion to act as Chairman, he shall nominate his Deputy.

11. *Secretariat.*—The Management and the Workers' sides of the Committee shall each appoint a Secretary from its respective members of the Committee. Such Secretaries shall act as joint Secretaries to the Committee.

\* By a subsequent agreement dated 15th February, 1945, the following paragraph was added to this sub-section.

"Provided that those adult organised workers with not less than five years' continuous service in the industry shall be eligible for election after not less than one year's continuous service at the factory concerned".

**VIII. MEETINGS OF THE COMMITTEE.**

12. Meetings of the Committee shall be held once a month. Additional meetings shall be held when it is mutually agreed they are necessary.

13. *Accommodation for Meetings.*—Accommodation for holding meetings of the Committee will be provided by the Management.

14. *Payment for Attendance.*—Workers' representatives on the Committee shall be paid not less than their time rate of wages including national bonus for the time spent in attendance at meetings.

**IX. AGENDA FOR MEETINGS OF THE COMMITTEE.**

15. Items for the Agenda shall be submitted to the Joint Secretaries not less than four days before a meeting and the Agenda shall be issued by them at least three days before the meeting, except in the case of special meetings.

**X. MINUTES.**

16. The Joint Secretaries of the Committee shall prepare and issue to the members of the Committee minutes of its proceedings.

**XI. SUB-COMMITTEES.**

17. The Committee shall have power to appoint Joint Sub-Committees to deal with any particular question.

The Joint Secretaries of the Committee shall function in connection with the work of any such Sub-Committee and prepare a report or minutes of the proceedings of such Sub-Committee for submission to the Committee.

**XII. RECOMMENDATION.**

18. There shall be from the Federation a strong recommendation of these proposals to the Federated Employers.

**XIII. DURATION.**

19. This agreement shall terminate at the cessation of hostilities.

The question of any continuance beyond this point shall be the subject of mutual discussion.

Signed on behalf of:—

*Engineering and Allied Employers'*

*National Federation:*

G. E. BAILEY, *President.*

ALEXANDER RAMSAY, *Director.*

ALEX. C. LOW, *Secretary.*

*National Union of Foundry Workers:*

WM. WALLACE.

A. WILKIE, *General Secretary.*

*Amalgamated Engineering Union:*

JAC TANNER, *President.*

FRED. A. SMITH, *General Secretary.*

*Confederation of Shipbuilding and*

*Engineering Unions:*

HARRY N. HARRISON, *President.*

MARK HODGSON, *Group Chairman.*

London, 18th March, 1942.

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